



Protection & Advocacy Project

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Human Services Committee

Senate Bill 2164 - January 15, 2025

Testimony of Brad Peterson, Legal Director

Greetings Madam Chair Lee and members of the Human Services. My name is Brad Peterson and I am the Legal Director at the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency established in 1977 to assert and advance the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

P&A is statutorily authorized under state and federal law to pursue legal, administrative, and other appropriate remedies to ensure the protection of and the rights of persons with developmental disabilities or mental illness (NDCC§ 25-01.3-06; 42 USC §10805, 42 USC§ 15043). This authority allows P&A the ability to investigate reports of abuse, neglect, exploitation (NDCC 25-01.3-08; 45 CFR 1326.27(b)). A key component for P&A to carrying out its investigative authority is the ability to access records of a client (NDCC§ 25-01.3-07; 42 CFR§ 51.41; 45 CFR§1326.25).

While carrying out its mandated duties, P&A may at times need access to records from a financial institution. Recently, P&A has received resistance from financial institutions in providing access to records, even though P&A showed a need for the records, assured the financial institution of compliance with statutory confidentiality requirements, and cited existing law. It has been suggested by financial institutions that this resistance is based on NDCC 06-08.1-03 which limits the release of certain financial records to governmental agencies and law enforcement in financial exploitation matters.

P&A supports the passage of Senate Bill 2164 in its current form, as it will serve the best interests of those it is intended to protect by ensuring P&A the ability to carry out its statutory mandate to investigate suspected abuse, neglect, or financial exploitation of an individual with a disability under Chapter 25-01.3 without imposing a duty on a financial institution to investigate suspected abuse, neglect, or exploitation of an individual with a disability or to make a report directly to the protection and advocacy project.

Brad Peterson

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