

2013 SENATE HUMAN SERVICES

SB 2161

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2161
1/21/13

Recording Job Number: 17427

Conference Committee

Committee Clerk Signature:



Explanation or reason for introduction of bill/resolution:

Relating to the child fatality review panel.

Minutes:

You may make reference to "attached testimony."

Vice Chairman Larsen opens hearing on SB 2161.

Senator Judy Lee introduces the Bill to the committee at the request of the Department of Human Services. She states that it will clarify information about the panel, particularly in the area of near deaths resulting only from the area of child abuse and neglect.

No questions from the committee for Senator Lee.

Marlys Baker, Administrator for the Child Protection Services in the Children and Family Services Division, is first up to testify to provide information on SB 2161.

See attached testimony #1.

Floor is open for questions from the committee.

(0:4:36) Senator Dever asks for an explanation of who does the investigations and if they are separate from criminal investigations.

Ms. Baker explains that, yes, this is separate from any criminal investigation. It's a records review that occurs after any investigation by law enforcement or any assessment by child protection is complete. The Child Fatality Review Panel does no independent investigation, but rather reviews the records of those who have investigated. She then goes on to list the individuals on the review panel (see attachment #2).

(0:7:00) Senator Larsen asks Ms. Baker what the reason is for adding "near fatalities."

Ms. Baker states that there was federal guidance issued this past September that clarified what was required to be in compliance with the Federal Child Abuse Prevention and Treatment Act (CAPTA). The review of near fatalities and release of specific information was a requirement according to that guidance.

(0:7:35) Senator Larsen asks if there are patterns in the state of where this is happening.

Ms. Baker states that they do keep data and there are pockets of fatalities that are concerning, particularly in Reservation communities.

No further questions from the committee for Ms. Baker and no further testimony in favor or opposition.

Chairman Lee closes hearing on SB 2161.

Time allows for a committee discussion.

Senator Anderson moves Do Pass.

Senator Larsen seconds.

Senator Dever explains that he feels the work of this panel is very important and it added a lot for him to hear that they are all professionals.

Chairman Lee follows by asking Ms. Baker to send her the names of the members she listed previously that make up the Child Fatality Review Panel (see attachment #2).

No further committee discussion.

Roll call vote: 5-0, Do Pass.

Senator Larsen carries Bill to the floor.

Date: 1/21/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 21001

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Anderson Seconded By Sen. Larsen

Senators	Yes	No	Senator	Yes	No
Chariman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Larsen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2161: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was placed on the Eleventh order on the calendar.

2013 HOUSE HUMAN SERVICES

SB 2161

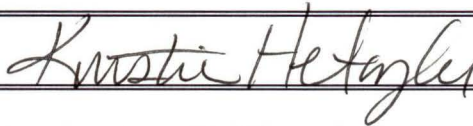
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2161
March 11, 2013
Job 19705

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the child fatality review panel.

Minutes:

Testimony 1

Chairman Weisz: Opened the hearing on SB 2161.

Sen. Judy Lee: Introduced the bill and testified in support of the bill.

Marlys Baker: Administrator for Child Protection Services for the DHS testified in support of the bill. (See Testimony #1) 5:00

Rep. Porter: Is there anywhere in this section that states the definition of near death would be? How is that mirror of the federal definition going to be put into the administration of this change?

Baker: The federal definition would be used in policy, we have a policy manual.

Rep. Porter: When we add a new definition such as near death we also add definition section to the law so that it is limited in scope to what we are being told the limit is?

Baker: We did have discussed the possibility that if the definition changes again we will be back here for amendments.

Rep. Porter: That is kind of the point.

Rep. Silbernagel: Who does the annual report that is provided go to and how is it used?

Baker: The annual report is placed on line on the department's website so it can be used by the public, other agencies, and anyone that wishes to view the data.

Rep. Fehr: The reason for the bill is to meet the federal requirement and the changes in here are specifically related to only the federal requirement, correct?

House Human Services Committee

SB 2161

March 11, 2013

Page 2

Baker: That is correct.

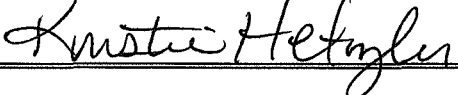
Chairman Weisz: Closes hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2161
March 11, 2013
Job 19733

Conference Committee



Explanation or reason for introduction of bill/resolution:

A bill relating to the child fatality review panel.

Minutes:

Amendment 1

Chairman Weisz: Opens hearing for SB 2161

Rep. Porter: Amendments handed out. Motions to move amendment.

Rep. Fehr: Seconds.

Rep. Mooney: Their testimony is that they did not originally put into statutory language because they wanted it in rules and procedures, is that correct?

Chairman Weisz: We do not want the definition to change without legislation being involved in that decision.

Voice vote: moves

Rep. Fehr: Moves Do Pass as Amended.

Rep. Looyen: Second.

Carried by: Rep Oversen

March 11, 2013

YR
3/12/13
103

PROPOSED AMENDMENTS TO SENATE BILL NO. 2161

Page 1, line 1, after "sections" insert "50-25.1-02,"

Page 1, line 1, after "50-25.1-04.3" insert a comma

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means a person who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a public or private school or child care setting.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol abuse or dependence as defined in the current diagnostic and statistical manual published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in subdivision a of subsection 1 of section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.
4. "Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.
5. "Authorized agent" means the county social service board, unless another entity is designated by the department.
6. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews,

forensic medical examinations, mental health and related support services, advocacy, and case review.

- 7. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
- 8. "Department" means the department of human services or its designee.
- 9. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.
- 10. "Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department shall coordinate the organization of local child protection teams on a county or multicounty basis.
- 11. "Near death" means an act which, as certified by a physician, places a child in serious or critical condition.
- 12. "Neglected child" means a deprived child as defined in chapter 27-20.
- ~~12~~13. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery of the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.
- ~~13~~14. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- ~~14~~15. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the

designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons."

Renumber accordingly

Date: 3-11-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Porter Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. MOONEY		
VICE-CHAIRMAN HOFSTAD			REP. MUSCHA		
REP. ANDERSON			REP. OVERSEN		
REP. DAMSCHEN					
REP. FEHR					
REP. KIEFERT					
REP. LANING					
REP. LOOYSEN					
REP. PORTER					
REP. SILBERNAGEL					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-11-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2161

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Fehr Seconded By Looyen

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	/		REP. MOONEY	/	
VICE-CHAIRMAN HOFSTAD	/		REP. MUSCHA	/	
REP. ANDERSON	/		REP. OVERSEN	/	
REP. DAMSCHEN	/				
REP. FEHR	/				
REP. KIEFERT	/				
REP. LANING	/				
REP. LOOYSEN	/				
REP. PORTER	/				
REP. SILBERNAGEL	/				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Overseen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2161: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 1, after "sections" insert "50-25.1-02,"

Page 1, line 1, after "50-25.1-04.3" insert a comma

Page 1, after line 3, insert:

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3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in subdivision a of subsection 1 of section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.
4. "Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.
5. "Authorized agent" means the county social service board, unless another entity is designated by the department.
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7. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
8. "Department" means the department of human services or its designee.
9. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.
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12. "Neglected child" means a deprived child as defined in chapter 27-20.
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Renumber accordingly

2013 TESTIMONY

SB 2161

**Testimony
Senate Bill 2161
Senate Human Services Committee
Senator Judy Lee, Chairman
January 21, 2013**

Chairman Lee, members of the Senate Human Services Committee, I am Marlys Baker, Administrator for Child Protection Services in the Children and Family Services Division, for the Department of Human Services. I appear before you today to provide information as you consider Senate Bill 2161.

The Federal Child Abuse Prevention and Treatment Act, (CAPTA), provides federal funding for child protection services, to states in compliance with the federal act. CAPTA funding in FFY 2011 provided approximately \$95,000 in North Dakota.

One of the provisions of CAPTA, section 106(b) (2) (B) (viii) (V), requires the public disclosure of information about a case of child abuse or neglect that led to a child fatality or near fatality. Federal guidance issued in September, 2012, clarified that states must develop procedures for the release of specific information related to child abuse and neglect fatalities and near fatalities.

Currently, the North Dakota Child Fatality Review Panel conducts retrospective record reviews of all child deaths which occur in North Dakota, including deaths from child abuse and neglect. The bill before you seeks to expand the review of child fatalities to include cases of near fatality resulting from child abuse and neglect. The federal definition of near fatality is an act that, as certified by a physician, places the child in serious or critical condition.

The Child Fatality Review Panel issues an annual report, which provides de-identified data, with identifying information removed, regarding reviewed child deaths. This bill would require development of an annual report of reviewed near fatalities, which contains the federally required information. The specific requirements for the minimum information to be released are found on page 2 of the bill. The bill contains only information that must be released to meet the federal requirement.

This bill does not impact the current statute mandating that suspicions of child abuse and neglect be reported. Nor does this bill require any additional actions on the part of reporters of suspected child abuse and neglect. Child abuse or neglect near fatalities would be identified for review by the Department through the child welfare data system currently in use for all cases of suspected child abuse or neglect.

I would be happy to answer any questions. Thank you.

SB2161

Child Fatality Review Panel Membership 2013

Marlys Baker – Presiding Officer, Administrator of Child Protection Services - DHS

Tracy Miller – Coordinator, Child Fatality Review Panel - DHS

Dr. Terry Dwelle – State Health Officer - Department of Health

Jonathan Byers – Assistant Attorney General - ND Attorney General's Office

Dr. William Massello – State Forensic Medical Examiner

Dr. Mary Ann Sens – Department of Pathology – UND; Grand Forks County Coroner

Steve Kukowski – Sheriff - Ward County Sheriff's Department

Lisa Bjergaard – Director, Division of Juvenile Services - DOCR

Dr. Arne Graff – Pediatrician - Sanford Health

Duane Stanley – Special Agent - ND Bureau of Criminal Investigation

Bobbi Peltier – Injury Prevention Specialist - Indian Health Services

Shelly Arnold – Emergency Medical Services - Sanford Health

Karen Eisenhardt – Citizen Member, Fargo

Dr. Gordon Leingang – Physician - St. Alexius Medical Center

Carol Meidinger – Citizen Member, Bismarck

Carla Pine – Citizen Member, Mandan

Diana Read – Injury Prevention Administrator, ND Department of Health



**Testimony
Senate Bill 2161
House Human Services Committee
Representative Robin Weisz, Chairman
2013**

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SB 2161
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Pg. 2

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March 11, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2161

Page 1, line 1, after "sections" insert "50-25.1-02,"

Page 1, after line 4, insert:

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agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons."

Renumber accordingly