

2015 SENATE JUDICIARY

SB 2063

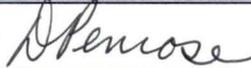
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2063
1/13/2015
21892

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

#1

Ch. Hogue: We will open the hearing on SB 2063.

Julie Hoffman, Adoptions Administrator for the Dept of Human Services: Support (see attachment #1).

Ch. Hogue: Does the Department ever weigh in on whether the parental rights should be terminated or not.

Julie Hoffman: We could and we do get notice some of the time from some jurisdictions, but not from all. We may be able to weigh in if we had a copy of the petition and had a concern.

Ch. Hogue: What about on adoptions. Does the department weigh in on those, and if so, what kind of information do you provide to the court.

Julie Hoffman: Yes, on petitions for adoption we are a required respondent to all adoptions. It depends on the kind of the adoption, how we weigh in. If it is a step-parent adoption, where we are only required to be a respondent because it is a type of adoption we do a cursory letter saying we are in agreement with going ahead and holding the hearing. If it is a child who is in our custody, then we would be filing documents with the court; like the consent of the Dept. to the certified adoption termination order and other legal documents that the court is going to require for the finalization. It depends on the adoption that determines our course of action.

Ch. Hogue: Thank you. Further testimony in support of SB 2063. Testimony in opposition.

Jim Gange, Office of State Court Administrator: I'm here on the behalf of the Judicial Conference Legislative Committee. Opposition is way too strong a word. We have a slight concern with a little suggestion might do better. Essentially the concern is with the placing the responsibility on the court to provide the copy of the petition and the summons. The court, in a vast majority of cases, is not in the business of distributing petitions and summons to other parties. That's normally a responsibility that falls on the petitioner. The

suggestion is that you simply on line 19 replace "court" with "petitioner". That is the extent of my comment.

Ch. Hogue: Typically would it be the department in a lot of cases as the petitioner; the local Human Services office that is terminating these parental rights.

Jim Gange: Ms. Hoffman would be better able to answer that. At some point, there are some TPR's that come in in that direction. In adoption proceedings, they typically get put together, so the TPR and the adoption go side by side.

Ch. Hogue: It seems to me that it is usually the department, in some cases anyway, that are moving to terminate the rights.

Julie Hoffman: In most cases, where it is a termination filed under 27-20, which is the juvenile court act, it would be county social services who is filing the petition, so that state's attorney would be acting on behalf of the county social service's office.

Ch. Hogue: So the party is the county and the county's chief witness is somebody within the local branch of the department.

Julie Hoffman: It would likely be the case manager at the county social service office and others there.

Ch. Hogue: Any concern with Mr. Gange's suggestion.

Julie Hoffman: I don't think that we would have a concern with that.

Sen. C. Nelson: Every Monday in the Fargo forum there are legal notices and there are always legal notices about things dealing with minors, custody and those types of things. Don't you have to give public notice anyway?

Julie Hoffman: Generally speaking, I think those public notices are for when they can't locate a party to the action. It might be a parent who is not available, then they would publish a last known address for that party.

Sen. Armstrong: Would this, in those situations where say a private individual is terminating parental rights; like a mom is terminating the rights of the dad. Would this still be required then too?

Julie Hoffman: If it is a private matter, it would likely not be filed under 27-20, it would likely be filed under the adoption statute, 14-15; then it would be filed jointly with an adoption petition.

Sen. Armstrong: In a situation where there are two parents and one parent is in prison for 30 years and the mom has remarried and they try termination. Sometimes that goes with an adoption because if she is remarried or something like that, and the new husband is trying to adopt, sometimes it doesn't-it is just a straight termination. It's not really a social service issue; it is a private issue in those situations, would you still get notified.

Julie Hoffman: I believe if it were filed under 27-20, yes, we would, based on this amendment.

Sen. C. Nelson: Since we are not all attorneys, 27-20 is specifically what.

Julie Hoffman: The 27-20 statute is the uniform juvenile court act and it regulates those things in the juvenile court.

Ch. Hogue: Thank you. Further testimony in opposition or neutral.

Kim Jacobson, Director of Traill County Social Services: I am just here to follow up on a couple of comments that were made today. Regarding the proposed amendment by the Judicial Conference Committee, I would suggest that there just be some clarification that the service could be done electronically, so it doesn't put the burden on the county to provide in-person service in filing those legal documents. That would help the counties be able to serve that more timely.

Ch. Hogue: Thank you. Further neutral testimony.

Sen. Grabinger: Do you have any problems with that suggestion right there that it be done electronically rather than by mail.

Julie Hoffman: No, we would not. We currently receive notice by electronic service.

Sen. C. Nelson: Does that have to be specific since they already do it. Here it just says provide a copy, it doesn't say how. Can that be expanded since you are already doing it by electronic means, or do we have to put something in there?

Ch. Hogue: I think to answer your question. The purpose of the bill would be to require that they do receive notice, not knowing what the practices are out there in each of the 53 counties; this would make it clear that they have to do that. As long as you have the 10 days in there, I'm not sure if it matters whether it is electronic or paper copy because the department will have somebody with responsibility for reviewing these matters and will decide on a short-term basis which ones it needs to be active in and which one they don't have to be active in. Further testimony. We will close the hearing on SB 2063.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2063
1/20/2015

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

1

Ch. Hogue: We will take a look at SB 2063. There is an amendment to clarify who is responsible for notice to the parties.

Sen. Grabinger: He suggested the petitioner and when I went to draw it up as an amendment, that you had mentioned that it should be clerk of court or juvenile, what is the reasoning instead of the petitioner.

Ch. Hogue: Typically the petitioner is the county and the court provides notice. When the court schedules a hearing, it is the clerk of court that sends out the notice. So they would be the appropriate party to make the notification.

Sen. Grabinger: I just wondered what the difference was and why you chose that.

Ch. Hogue: What are the committee's wishes?

Sen. Armstrong: I move the amendment 15.8049.01001, title .02000; (#1)

Sen. Luick: Second the motion.

Sen. Grabinger: Is that clerk of district court or juvenile court shall provide a copy.

Ch. Hogue: Yes; that language is already there. We will take a voice vote. Amendment passed. We now have the bill before us as amended. What are the committee's wishes?

Senate Judiciary Committee

SB 2063

1/20/2015

Page 2

Sen. Armstrong: I move a Do Pass as amended.

Sen. Casper: Second the motion.

6 YES 0 NO 0 ABSENT DO PASS AS AMENDED

CARRIER: Ch. Hogue

15.8049.01001
Title.02000

Adopted by the Judiciary Committee

January 20, 2015

N
1/20/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2063

Page 2, line 19, after the second "the" insert "clerk of district court or juvenile"

Renumber accordingly

Date: 1/20/15
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 2063

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 15.8049.01001 02000

Recommendation: Adopt Amendment

Do Pass Do Not Pass Without Committee Recommendation

As Amended Rerefer to Appropriations

Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Armstrong Seconded By Sen. Luick

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Motion Passed

Date: 1/20/2015

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2063

Senate

JUDICIARY

Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Armstrong Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Hogue

REPORT OF STANDING COMMITTEE

SB 2063: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2063 was placed on the Sixth order on the calendar.

Page 2, line 19, after the second "the" insert "clerk of district court or juvenile"

Re-number accordingly

2015 HOUSE HUMAN SERVICES

SB 2063

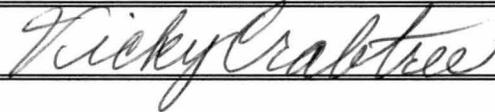
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2063
3/4/2015
Job #24303

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

The DHS receiving a copy of the termination of parental rights petition and summons

Minutes:

Testimony 1

Chairman Weisz opened the hearing on SB 2063.

Julie Hoffman: Adoptions Administrator for DHS testified in support of the bill. (See Testimony #1).

2:05:

Chairman Weisz: Do you know the reason why the original bill says court and then they wanted to narrow it down to be the clerk of district or juvenile court?

Hoffman: On the Senate side hearing an employee of the Supreme Court asked that we clarify that.

Rep. Porter: What prompted this? Were you missing hearings or situations not being caught?

Hoffman: No specific issue. We don't have consistent practice in this area. We felt it would make a more complete file for the children we are serving.

Rep. Porter: Is 10 days reasonable? Does it include an emergency termination? Does this fit all of them?

Hoffman: When we have talked to the county directors about this, no one has raised this as an issue. I will defer to Jon Alm our legal.

Jonathon Alm: Attorney for DHS. We figured if the state's attorney at least going to file a petition for termination and they will have to provide notice to the parents and it will come outside of that 10 days realm. If there is an emergency situation and filed within the 10 days, there is no penalty provision in this statute where it will require them to reschedule

that hearing. We thought 10 days before hand would give us enough time to have that information in the child's file for our information.

Rep. Porter: In the case of an emergency would it put the state's attorney outside of the law that we should have an exception to this?

Alm: I have a tough time seeing an emergency situation arising where the state's attorney would have to immediately terminate somebody's parental rights. Usually that child has been out of his parent's home for some time already.

Chairman Weisz: Julie you said sometimes you are not being notified so what happens?

Hoffman: We don't even know we have custody of the child. We find out we have a termination of rights when we get the adoption papers.

Chairman Weisz: Does it delay your adoption process?

Hoffman: No.

Fehr: When you are looking at termination wouldn't the county social services always be involved?

Hoffman: Under ND Century Code 2720 those children always are in the custody of the county.

Fehr: Couldn't you by policy request the county social services notify the department?

Hoffman: We could. Because it deals with court matters and we get petitions in other court proceedings, like in adoptions it seemed like a consistent way to get this information.

NO OPPOSITION

Chairman Weisz closed the hearing on SB 2063.

Chairman Weisz: Rep. Porter were your questions answered on the emergency?

Rep. Porter: I'm good.

Rep. Hofstad: I move a Do Pass on SB 2063.

Rep. Seibel: Second.

ROLL CALL VOTE: 11 y 0 n 2 absent

MOTION CARRIED

Bill Carrier: Rep. Seibel

Date: 3-4-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2063**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Hofstad Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	✓	
Rep. Bert Anderson	✓		Rep. Oversen	✓	
Rep. Dick Anderson	A				
Rep. Rich S. Becker	A				
Rep. Damschen	✓				
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter	✓				
Rep. Seibel	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Seibel

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

REPORT OF STANDING COMMITTEE

SB 2063, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2063 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2063

Testimony
Senate Bill 2063 – Department of Human Services
Senate Judiciary Committee
Senator David Hogue, Chairman
January 13, 2015

Chairman Hogue, and members of the Senate Judiciary Committee, I am Julie Hoffman, Adoptions Administrator for the Department of Human Services (Department). I am here today in support of Senate Bill 2063 which was introduced at the request of the Department.

This bill amends North Dakota Century Code Section 27-20-45, the Uniform Juvenile Court Act, regarding proceedings for termination of parental rights. The proposed changes on page 2, lines 19 through 20, would require the court to provide a copy of the petition and summons to the Department at least 10 days prior to a hearing on the petition. Since most children subject to termination of parental rights in this section will be placed in the custody of the Department, we believe receiving a copy of the petition and summons prior to the hearing is warranted. The Department receives notice of adoption petitions under North Dakota Century Code Chapter 14-15, so the proposed change would be consistent with existing provisions in another statute.

The Department recommends passage of Senate Bill 2063. I would be happy to answer any questions you might have.

1/20/15 #1-1

PROPOSED SENATE BILL NO. 2063

1 A BILL for an Act to amend and reenact section 27-20-45 of the North Dakota
2 Century Code, relating to the department of human services receiving a copy of the
3 termination of parental rights petition and summons.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 27-20-45 of the North Dakota Century Code
6 is amended and reenacted as follows:

7 **27-20-45. Proceeding for termination of parental rights.**

8 1. The petition must comply with section 27-20-21 and state clearly that an
9 order for termination of parental rights is requested and that the effect will
10 be as stated in section 27-20-46.

11 2. If both of the natural parents of the child are not named in the petition
12 either as petitioner or as respondent, the court shall cause inquiry to be
13 made of the petitioner and other appropriate persons in an effort to
14 identify an unnamed parent. The inquiry must include, to the extent
15 necessary and appropriate, all of the following:

- 16 a. Whether any man is presumed to be the father of the child under
- 17 chapter 14-20.
- 18 b. Whether the natural mother of the child was cohabiting with a man
- 19 at the time of conception or birth of the child.
- 20 c. Whether the natural mother of the child has received from any
- 21 man support payments or promises of support with respect to the
- 22 child or in connection with her pregnancy.
- 23 d. Whether any person has formally or informally acknowledged or
- 24 declared that person's possible parentage of the child.
- 25 e. Whether any person claims any right to custody of the child.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2063

1-2
1/20/19

Page 2, line 19, after the second "the", insert "clerk of district court or juvenile"

#1

Testimony
Engrossed Senate Bill 2063 - Department of Human Services
House Human Services
Representative Robin Weisz, Chairman
March 4, 2015

Chairman Weisz, and members of the House Human Services Committee, I am Julie Hoffman, Adoptions Administrator for the Department of Human Services (Department). I am here today in support of Engrossed Senate Bill 2063 which was introduced at the request of the Department.

This bill amends North Dakota Century Code Section 27-20-45, the Uniform Juvenile Court Act, regarding proceedings for termination of parental rights. The proposed changes on page 2, lines 19 through 21, would require the clerk of district court or juvenile court to provide a copy of the petition and summons to the Department at least 10 days prior to a hearing on the petition. Since most children subject to termination of parental rights under this section will be placed in the custody of the Department, we believe receiving a copy of the petition and summons prior to the hearing is warranted. The Department receives notice of adoption petitions under North Dakota Century Code Chapter 14-15, so the proposed change also would be consistent with existing provisions in another statute.

The Department recommends passage of Engrossed Senate Bill 2063. I would be happy to answer any questions you might have.