

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Amendment to: HB 1395

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$371,762		\$371,762	
Appropriations			\$371,762		\$371,762	

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1395 Amends section 14-09-22 of the NDCC and requires a person who pleads guilty or convicted of child abuse to undergo specific evaluations and assessments as well as to participate in treatment recommended as a result of the evaluations.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 requires an individual who pleads guilty or is convicted of an offense covered under this section to complete a parental capacity evaluation, mental health evaluation and anger management assessment, and to participate in all treatment recommended as a result of those evaluations.

The last 4 calendar years have averaged 91 convictions of child abuse. The Department of Human Services, has completed all court ordered evaluations and is assuming to complete all evaluations added under this bill. It is estimated about 40% of all convictions may receive the recommended treatment from the evaluations at a Human Service Center. 20% is estimated based on the population of Medicaid, Medicaid Expansion and uninsured persons and 20% due to the higher risk of this population.

Total hours of evaluations are estimated to be 98/month and total hours of treatment/month is estimated at 108 hours.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department of Human Services would need 1.5 FTE to complete the evaluations and recommended treatment. The cost for salary and operating expenses for 1.5 Advanced Clinical Specialist is estimated to be \$371,762 per biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

For the 2019-2021 Biennium, the Department of Human Services would need a general fund appropriation of \$371,762.

Name: Donna Aukland

Agency: Human Services

Telephone: (701)328-4924

Date Prepared: 01/27/2019

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Amendment to: HB 1395

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Name: Donna Aukland

Agency: Human Services

Telephone: (701)328-4924

Date Prepared: 01/27/2019

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Bill/Resolution No.: HB 1395

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Name: Donna Aukland

Agency: Human Services

Telephone: (701)328-4924

Date Prepared: 01/27/2019

2019 HOUSE JUDICIARY COMMITTEE

HB 1395

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee Prairie Room, State Capitol

HB 1395
1/29/2019
31692

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek By: Elaine Stromme
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Explanation or reason for introduction of bill/resolution:

Relating to requiring evaluations for individuals convicted of child abuse; to provide for a legislative management study; and to provide a penalty.

Minutes:

Attachments: 1,2,3,4,5

Chairman Koppelman: Opened the hearing on HB 1395.

Rep. Schauer: Introduced the bill. (Attachment #1) Read testimony and went over bill. Stopped 5:00.

Chairman K. Koppelman: In Section 2 of the bill with the study provision. When I think of family law I think of the civil side rather than the criminal side; would you envision a specialty court that would have to be both?

Rep. Schauer: I think it has to be both.

Chairman K. Koppelman: How many courts do we create? That is one issue that comes up. In the case you are discussing was there any request by the prosecutors or anyone else that would have prevented contact as you described?

Rep. Schauer: There are other people here to answer that question.

Rep. McWilliams: I didn't see a definition for mental injury. Would you comment on that?

Rep. Schauer: No, other people will testify about that.

Amy Kempfer, (Attachment #2) Read testimony. Stopped 19:10

Rep. McWilliams: You mentioned the judge didn't know what to do. How old was the child's father?

Amy Kempfer: My husband would have been 34. Every time we have had to go through the court system I have had to hire a different attorney.

Kim Radermacher: (Attachment #3) Stopped 27:00.
This bill is very important to me because I am a close friend.

Rep. Satrom: Are there are lots of these problems?

Kim Radermacher: If you have been listening to the news, what has been happening in the last 15 months, there was a baby drowned in the bath tub by his father, a baby drowned in Lake Williams, there was about 8 cases of child abuse.

Chairman K. Koppelman: You mentioned something about the mental health evaluations, or the other things the perpetrator was going through. What was lacking in this case that the bill would fix.

Kim Radermacher: Because the child was able to leave the hospital and go home. CPS gave her, a no services required, and a services recommended for the perpetrator. That is exactly where the ball dropped.

Leslie Bernet: A board member for Child Abuse for ND, and a newly registered lobbyist: Discussed abuse. In support of the bill. We have an opportunity to begin to do specific family court where there are individuals who are experts. They can help individuals that otherwise do not know how to get the help that they need.

Chairman K. Koppelman: You talked about child sexual abuse. We have toughened the laws around that crime. Is there a disconnect between physical or sexual abuse of children in the way the courts address it?

Leslie Bernet: Mine was sexual. I always assumed someone that admitted it, that they were sentenced for the crime. But that is not the case. Yes, there is a huge disconnect.

Reid Brady, Assistant Cass County State's Attorney: (Attachment #4) I support the study to try and meld all the issues. The state did request a stay for 29 months and it was not accepted. It allowed for supervised contact between offender and the victim immediately. Mental injury is not defined in Century Code. In case county I found one case where mental injury as alleged. Sexual offenses are dealt with more harshly. The offender must do five years of incarceration. We are asking for a risk assessment of the offender before sentencing.

Representative Simons: On line 10 it says abuse and neglect. What is the discipline definition of abuse?

Ried Brady: There are issues raised frequently for discipline. That is an area has been addressed recently in the supreme court. Certainly a study could solve that.

Linda Reinicke, Program Consultant for Prevent Child Abuse, ND: (Attachment #5) We support HB1395.

Rep. Satrom: Amy has been very proactive. What about people who are not highly functioning, how can we make sure they will not fall through the cracks as well.

Linda Reinicke: That is a concern. Our general system is we don't have advocates for people to help them advocate for themselves. They have no place to go. I think that is a huge issue.

Opposed:

Neutral

Hearing Closed

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1395
2/4/2019
32141

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek By: Elaine Stromme
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Explanation or reason for introduction of bill/resolution:

Relating to requiring evaluations for individuals convicted of child abuse; to provide for a legislative management study; and to provide a penalty.

Minutes:

Chairman Koppelman: Reopened the meeting on HB 1395.

The latter part of this bill is dealing with two different issues. The first one has to do with people convicted of this offence or pleading guilty to it requires the court to include in the sentence, in order for the person to complete a mental health evaluation, and anger management assessment they have to participate in all treatment recommendations

As a result of these evaluation. That was addressed in HB 1396. It was concerning not only a light sentence but a lack of intervention along these lines, so the next section, Section 2 of the bill calls for a legislative management study to implement family law court.

Rep. Paur: Made a motion to amend the bill on page 2, line 4 delete (participate in) replace it with (to complete).

Rep. Vetter: Seconded the motion to amend HB 1395

Rep. Rick Becker: If you are currently convicted, can a part of your sentence include you have to be evaluated and seek treatment?

Chairman K. Koppelman: I believe so. The bill states they have to complete the evaluations and then have the necessary treatments as a result of those evaluations. We need to re-refer this to the Appropriations Committee so they can take a closer look at this.

Voice vote carried.
4:56

Chairman Koppelman: What are the committees wishes on Section 2 of the HB1395?

Rep. Hansen: Change the words on Page 2 - Line 2, the words "shall consider" to "may".

Chairman Koppelman: Just as a reminder the next bill would require mandatory sentencing this one would just require that evaluation and treatment.

Rep. Hansen: I will move to amend the bill, change the words on Page 2 – Line 2, the words, “shall consider” to “may”.

7:36

Rep. Becker: Seconded, Withdrew second

Rep Roers Jones: Seconded

Discussion on the bill.

A Voice Vote was taken on the amendment to HB1395

The Amendment Failed

Discussion on the bill.

Representative McWilliams: I move to take out lines 5-14 on page 2.

Representative Paur: Seconded

Chairman K. Koppelman: All in favor of eliminating Section 2 from the bill say I.

The Amendment to take out Lines 5-14 on page 2 of HB 1395, PASSED - to adopt the Amendment, with a voice vote. Voice vote carried.

20:51

Rep Roers Jones: Motion was made to Do Pass on a twice Amended HB 1395.

Rep. Vetter: Seconded

Discussion

A Roll Call Vote was taken Yes – 12 No – 2 Absent 0

Do Pass On HB 1395 - twice amended - and be rereferred to the Appropriations Committee

Rep. Roers Jones will carry HB 1395 as twice amended.

February 4, 2019

DR 2/4/19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1395

Page 1, line 2, remove "to provide for a"

Page 1, line 3, remove "legislative management study;"

Page 2, line 4, replace "participate in" with "complete"

Page 2, remove lines 5 through 14

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1395**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Page 2 line 4 delete (participate in) replace it with (to complete)

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. Paur Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE : CARRIED

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1395**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Page 2 line 2 delete (shall consider) replace it with (may)

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. Hansen Seconded By Rep. Roers Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE : FAILED

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB1395**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: To take out lines 5 – 14 on page 2

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. McWilliams Seconded By Rep. Paur

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1395**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 190789.01002

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. Roers Jones Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker		X			
Rep. Terry Jones	X				
Rep. Magrum	X				
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter	X				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Roers Jones

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

REPORT OF STANDING COMMITTEE

HB 1395: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1395 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to provide for a"

Page 1, line 3, remove "legislative management study;"

Page 2, line 4, replace "participate in" with "complete"

Page 2, remove lines 5 through 14

Renumber accordingly

2019 HOUSE APPROPRIATIONS

HB 1395

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1395
2/14/2019
32743

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Risa Bergquist and Parker Oswald

Explanation or reason for introduction of bill/resolution:

Relating to requiring evaluations for individuals convicted of child abuse; and to provide a penalty.

Minutes:

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Chairman Delzer: Opens meeting on HB 1395.

Representative K. Koppelman: HB 1395 came to us to raise awareness about child abuse. The main example was a father who severely abused his young child and there were 2 bills that came out of that. He received a very lenient sentence, so this bill says that if you plead guilty to this kind of an offense, that the court will include a parental capacity evaluation, mental health evaluation and anger management. This is not always happening and the fiscal note costs come from what would be associated with this.

(1:25) Chairman Delzer: I think complete might bring some questions. What happens if they do not complete the treatments?

Representative K. Koppelman: I assume it is a probation sentence. What happens a lot of time is this just is not even on the radar.

Chairman Delzer: What is the definition of complete?

Representative K. Koppelman: They must comply with whatever the court orders and they must complete any treatment work that is given.

Chairman Delzer: You changed it from participate to complete.

Representative Kempenich: This is a solution to a much broader problem, are they evaluated again?

(3:55) Representative Brandenburg: What happens is that the courts aren't doing their job and kids are getting tremendous beatings and some people are not protecting them.

Chairman Delzer: The courts are there for a reason; this says they have to do all of these things. Did you put in there that at times it doesn't need to be done?

Representative K. Koppelman: There are 2 bills, HB 1395 and HB 1396. In this case, it was a child under 2-years old that was severely beaten.

Chairman Delzer: I understand that but what if the same judge does this, what's his penalty?

Representative K. Koppelman: I do not think we have penalties in law for judges who do not do their job. We have tried to give judges a little flexibility and sometimes hands are tied because minimum sentences are too harsh or lenient. Is this a mandatory minimum? No, it is not really, this says they have to go to the evaluation and if you don't then you are going to jail.

Chairman Delzer: A lot of people complete these and it does not get any better.

(7:35) Representative Kempenich: I think that is kind of up to the court.

Representative K. Koppelman: As he mentioned, there is nothing in there about the post evaluation being mandatory. It is to give the judge flexibility in that aspect. What this bill says is that a guilty plea carries these sort of evaluation and treatment plans.

Representative Schatz: Section 4 it says that the person has to complete the parental capacity and anger management treatments, who does that and who pays for it?

Representative K. Koppelman: I am not sure if the offenders have to pay for this all their self, so I would hope the court opposes that on them, but the fiscal note seems to show that not every offender will be able to pay for it themselves.

(9:20) Representative Brandenburg: This is about if you can afford a good attorney, then you do not have to do what you should do, so it is about bringing some balance and fairness.

Representative Kempenich: It is the intent that the court follows through.

Representative K. Koppelman: I assume that is correct.

(10:15) Chairman Delzer: This particular one has a fiscal note of \$371,000 and if you read it, there are 91 convictions and they have completed the court ordered evaluations.

Representative Beadle: We do not tend to act based on what other bills are trying to do, but that does amend the exact same section of code and adds the language that if anyone pleads guilty, they receive two years minimum.

Chairman Delzer: We will set this aside for now.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1395
2/14/2019
32788

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Risa Bergquist and Parker Oswald

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to requiring evaluations for individuals convicted of child abuse; to provide for a legislative management study; and to provide a penalty.

Minutes:

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Chairman Delzer: Opens meeting on HB 1395. This is a bill that is very hard to say no to, but I am not sure it will accomplish exactly what it is hoping to.

(00:20) Representative Brandenburg: Makes a motion of do pass on HB 1395. Seconded by Representative Howe.

Chairman Delzer: This is the one that makes it so guilty offenders have to do that parental capacity evaluation, mental health evaluation and an anger management treatment and complete all recommended treatment. The fiscal note is \$371,000.

Representative Mike Schatz: What about an Alfred plea? You are not really pleading guilty, but you are admitting it was wrong.

(1:25) Chairman Delzer: I am guessing you would be convicted still.

Representative J. Nelson: Doesn't the judicial branch have the ability to require this?

Chairman Delzer: Yes, but this would make it all mandatory instead of at their discretion.

Representative J. Nelson: We have been kind of backing off on some of the minimum mandatory guidelines and now we are going the other way. Why is it hard to say no to this?

(2:35) Chairman Delzer: I do not disagree with that, but it is a case of severe child abuse and it will be a big issue on the floor and in the papers. Frankly, no one wants child abuse and I do not think this will do what they want it to do in the end.

(3:25) Chairman Delzer: There was a motion of do pass on HB 1395 made by Representative Brandenburg and seconded by Representative Howe. Roll call vote is taken. Motion carries with 11 yes, 8 nays and 2 absent. Bill carried by Representative Roers-Jones.

Date: 2/14/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1395**

House Appropriations 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 Representative Brandenburg Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X			
Representative Kempenich	A				
Representative Anderson		X	Representative Schobinger		X
Representative Beadle	X		Representative Vigasaa	X	
Representative Bellew		X			
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	X	
Representative Kreidt		X	Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	A				
Representative Nathe	X				
Representative J. Nelson		X			
Representative Sanford	X				
Representative Schatz		X			
Representative Schmidt		X			

Total (Yes) 11 No 8

Absent 2

Floor Assignment Representative ~~Ross~~ - Jones

Motion Carries

REPORT OF STANDING COMMITTEE

HB 1395, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **DO PASS** (11 YEAS, 8 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed HB 1395 was placed on the Eleventh order on the calendar.

2019 SENATE JUDICIARY

HB 1395

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1395
3/11/2019
#33521 (45:13)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to requiring evaluations for individuals convicted of child abuse; and to provide a penalty.

Minutes:

3 Attachments

Chair Larson opens the hearing on HB 1395. Senator Osland was absent.

Austen Schauer, District 13 Representative, testifies in favor (see attachment #1)

Chair Larson: The question I have is whether there is access to those services across the state.

Representative Schauer: Yes, there is access, especially in the Fargo area.

Chair Larson: The problem with availability throughout the state has come up in this committee before. How will people complete this if they don't have it in their area?

Representative Schauer: The question is whether we feel as though that's necessary, and then we will work out that process from there.

Senator Bakke: We know these services are available in Bismarck, Minot and others. Do you think it's too much to ask them to drive to those places? I wouldn't think that's a problem.

Representative Schauer: Yes, I agree.

Vice Chairman Dwyer: Are these all separate evaluations such as parental capacity, mental health, anger management?

Representative Schauer: I'm not sure, but the experts behind me can answer. Ultimately it would be up to the judge. Also we are looking to take out line 4 on page 2. That will be discussed later.

(5:20) Amy Kempfer, citizen, testifies in favor (see attachment #2)

Kempfer: If they do not have local access, many parental capacity evaluations can be done via telehealth or telemedicine. Many times the mental health evaluation is included in the parental capacity evaluation, and they use the results to mirror each other because the MMPI provides very objective results whereas the parental capacity is more subjective. Also you can't always rule out if they're lying whereas the MMPI you can. However, they would technically be separate orders. If you were going to get a court order, you would have to have a court order for a parental capacity evaluation and a mental health evaluation. It's the same for the anger management evaluations. Oftentimes there are objective measures that they can include within a parental capacity evaluation such as how likely you are to reoffend, how appropriately you are responding to the stresses of you abusing your child, etc. This would also have to be a distinctly separate court order, especially if we're asking them to assign any risk for re-offense to that. Oftentimes they're done at the same time by the same provider, but they would technically be three separate services.

Chair Larson: How old is Brooks now?

Kempfer: 19 months

Senator Luick: Did you have any problem with the older brother?

Kempfer: We had him interviewed. That was Aarons stepson, my son from my first marriage. Avery never mentioned anything, which is concerning and why we wanted the evaluations done. He was a great stepdad, and it was very surprising to everybody. This is an educated person who doesn't have substance abuse problems or a criminal history, not even a speeding ticket. The concern is that it's unexplainable to everybody.

(18:25) Reid Brady, Assistant Cass County State's Attorney, testifies in favor

Brady: As indicated this is a rehabilitative bill with a purpose to improve those offenders who commit child abuse through these specific evaluations. As of now the courts do not have to require an offender to do any treatment. The Aaron Kempfer case was the one I prosecuted and worked closely with the victim to try to get a resolution that was both rehabilitative and punitive. The imposition of the sentence by the judge did not include a targeted evaluation, so that was one of the reasons for our efforts today. We also sought a no contact order to help alleviate some of the pressure that we believe would be on the child for some of these concerns that Ms. Kempfer articulated, but that was not effective either. We thought that would be rehabilitative and prevent further abuse, either physical or psychological, that Brooks could suffer. This bill is meant to fill that loophole to make it so there are no more Brooks type situations, we get these evaluations and get these orders for abusers to get the evaluation and improve themselves. Many of the offenders are family members and they reunite often, so this is important. We propose the striking of line 4 on page 2 because there would be argument that it would be unlawfully delegating the judge's rule and powers.

Senator Luick: Do you know of other cases like this that are problematic as well?

Brady: This is the flagship. We don't have too many cases. This is a good thing and a matter of quality rather than quantity. It won't impact a huge number of cases, but it will definitely impact the ones that do.

Senator Luick: How many of these cases turn into fatalities?

Brady: There have been few, at least those that went through court and documented. Over the last three available years through statistics gathered through our ND attorney general's office, there were four at most for each year.

Chair Larson: In a DUI sentence, when someone has to do an evaluation, don't they have to complete the treatment if the evaluation recommends that? I'm not sure that we should say that they didn't have to complete the treatment in deleting line 4.

Brady: Yes, and perhaps there is a way to salvage it if there's still an opportunity for a hearing for the offender to go back to court and disagree with the evaluator's recommendations. In the DUI context, each of the subdivisions just includes the addiction evaluation, it doesn't include the follow through. The judges routinely do order that, and the offender has the opportunity to contest the non-judicial decisions on what that treatment is. That's the focus on why we suggest striking that 4 to make it sure that it's the judge's rule to order those recommendations and not someone else delegated that responsibility.

Chair Larson: It seems that if someone is found guilty, that as part of their sentence, they would have to follow through with any evaluation recommendations. I don't know why that is something that could even be argued when they are found guilty of the crime.

Brady: That makes sense. The issue we're trying to avoid is the unlawful delegation of the judge simply saying, "go get an evaluation and follow whatever the evaluator says" without the offender having the opportunity to challenge that part of the order, that the judge has to review and agree with them first.

Vice Chairman Dwyer: Couldn't we change the language to say that treatment recommendations included in probation, which is part of their sentence, has to be completed so that it is the court's discretion? In any sentencing, the court can include some kind of probation. That probation part can include completing treatment options that are included in evaluations at the discretion of the court so that the courts are at least notified that they can include probation and some kind of treatment as part of their sentence.

Brady: I believe there is a way to tweak it such that we preserve that there will be recommendations or follow through ordered for the recommendations but to also encapsulate the judge's authority over those to bless whatever the evaluator says are the recommendations and have that offender have an opportunity to be heard.

Senator Bakke: If we were to amend it to say that once they have completed the evaluation, they have to appear before the judge again so the judge can review the recommendations, would that fix that line 4?

Brady: Yes, I believe that is the idea.

Senator Bakke: My youngest son was a shaken baby by his biological parents, and we were his foster parents. They had supervised visitation because of the danger. Is it appropriate to add to this bill as an amendment that all visitation would be supervised for a period of time determined by the court or by us?

Brady: That is along the same lines as what we were contemplating. Perhaps something could be included in this bill to address supervised visitation of victims. As of now, the judge does have the discretion.

Senator Bakke: We have a sex offender registry. Why don't we have a child abuse registry?

Brady: There is a registry for offenders against children, and Mr. Kempfer is on it. It's not as advertised as much as sex offenders however.

Senator Bakke: Does he contact with children?

Brady: That I do not know. He should have a probation officer, but I don't know if there's anything precluding him at this point from having contact.

(31:50) Sara Behrens, Staff Attorney with the State Court Administrators Office, neutral party

Behrens: We had discussed whether they would be amenable to taking out lines 4 and 5. Just to clarify how it does work with DUI cases, they'll typically order the evaluation as is required by the statute. Typically, they do require them to complete the treatment, but they allow them to object, so if there is something unexpected, that can be discussed in front of the judge and taken care of rather than it just being required outright. They do require them to complete the treatment rather than it being required outright. I would be willing to work with the sponsor of the bill to come up with something that's workable for both sides.

Senator Bakke: Is it possible to make it provisional on supervised or no visitation during that treatment period? Will that be met with some resistance?

Behrens: That is something I would have to think about and go back to the court to see what their thoughts on that would be.

Senator Bakke: Is it possible to tie the supervised or no visitation until they reappear before the court with these evaluations done?

Chair Larson: I'm concerned about getting too many items into one bill, but you certainly can pursue that if you'd like.

Senator Bakke: I agree. I have a hard time not requiring them to complete that treatment. My concern is to get them back to court so that they prove they've completed the treatment process.

Chair Larson: Please work with Senator Bakke and Representative Schauer on amendments. I think the intent is clear, but I'm not sure of the legality of how to make that happen.

(35:45) Donna Aukland, Assistant CFO for the Field Services Divisions for DHS, neutral testimony

Aukland: I'm here to talk about the fiscal note. We did assume that any evaluations that came from this bill would be completed by the eight human service centers around the state as well as the treatment that would occur from those evaluations. Right now we do not have the capacity to do these, but the fiscal note is requesting 1.5 FTE if the bill were to go through as written which would allow us to do so.

Chair Larson: You're saying that there are not services for an offender to be able to complete what would be ordered at this point?

Aukland: Those services are available, but we just do not have the capacity to add extra for the requirements for this bill.

Chair Larson: How many people are you expecting to go through this?

Aukland: Dr. Etherington who is the chief clinics officer for the eight human service centers, reached out to the courts and they had estimated that there were about 540 or so cases within the state of which 360 some had been convicted of child abuse. We used that number within the period of January 2015 through December of 2018 and averaged them out to be about 91 per year. We estimated the number hours for the evaluations needed and the number of hours for the treatment needed in order to estimate out how many FTE we would need to complete that.

Vice Chairman Dwyer: I'm assuming most of that would be the treatment part, not the evaluation part.

Aukland: We estimate about 14 hours of evaluation per person.

Chair Larson: How many are currently going through this that you are already serving and have been asked to do this without it being in century code?

Rosalie Etherington, Chief Clinics Officer for the Human Service Centers and Superintendent of the State Hospital

Etherington: We currently complete parental capacity evaluations but for a different statute. We have multiple psychologists across the state already trained in the process. The estimates would be that we would need to add an additional one and a half to then complete the volume that this would add to their caseloads. We are not completing parental capacity

assessments under the child abuse statute but rather under child custody. We would also complete a psychological assessment with parental components that might go through the county. The county may make requests to us, and we do hundreds per year also.

Aukland: We estimated that we would have about nine clients per month that we would be doing the treatment on at about 12 hours, so about 108 hours. We would have about 14 hours per person for evaluation, and we estimated off of that 91 per year that we would have to do about seven evaluations per month, so that would be about 100 hours of evaluation time per month that we would need. It would be a total a little bit over 200 hours in a month needed for the evaluation and treatment.

Chair Larson: Would you see crossover between child custody and child abuse cases?

Etherington: I would anticipate yes, but I can't venture an estimate.

Chair Larson: I'm trying to drill down on the fiscal note.

Etherington: I understand the logic. We can reach out to the court to see if there is an overlap and consider what that number might be. I would anticipate the majority of child custody cases that come forward are really not motoring along in any form of felony charge, but we can ask the question. We based the fiscal note also on the anticipation that we don't necessarily provide all of that treatment; rather we would refer out as necessary with all of our private partners, but we are the specialists in the state for parental capacity.

Chair Larson: When you look at the list of evaluations that are required in this bill, does that appear to be the list that should be included?

Etherington: Yes.

Senator Bakke: Does insurance pay for any of these evaluations and treatments?

Etherington: No. There are exclusions in insurance policies that would specifically state if it is a court ordered evaluation, it may not be billed to a third party payer source. We purposefully make sure we identify these assessments differently and they go into a general fund bucket.

Senator Bakke: The evaluations you are doing are private pay?

Etherington: Yes, and no. We base our services on the ability to pay. We would consider that private pay as in if they have the ability to pay, we would bill them. If they do not have the ability to pay, we would do that assessment at reduced fee or free. If, however, through the process of child custody it comes by way of a court order, we do not bill them. We would do the assessment and absorb the cost.

Chair Larson closes the hearing on HB 1395.

Further testimony was submitted (see attachment #3)

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1395
3/12/2019
#33569 (5:12)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to requiring evaluations for individuals convicted of child abuse; and to provide a penalty.

Minutes:

1 Attachment

Chair Larson begins discussion on HB 1395. Senator Osland and Senator Myrdal were absent.

(see attachment #1)

Vice Chairman Dwyer: The testimony was that on line 4 page 2 was a problem because it was the legislature directing the courts what they had to do. I visited with the Supreme Court gal and Travis Finck, and we looked at the statutes for DUIs. We patterned this language after that, and they both felt this would solve that problem.

Chair Larson: It will be consistent with other parts of law that refer to requiring evaluations.

Senator Luick: Is this the one that had concerns with availability?

Chair Larson: We talked about if someone is doing this, they probably should have to travel to their local area to complete this if they need to as a condition. It's not just located in Fargo in Bismarck; it's at the regional human service centers.

Senator Bakke: It's in several areas. They're convicted of child abuse and can be inconvenienced a little bit to get the evaluations and treatments they need.

Vice Chairman Dwyer: Motions to adopt amendment 19.0789.02001.

Senator Bakke: Seconds.

A Roll Call Vote Was Taken: 4 yeas, 0 nays, 2 absent. Amendment is adopted.

Senator Luick: Motions for a Do Pass as Amended and Rereferred to Appropriations.

Senator Bakke: Seconds.

A Roll Call Vote Was Taken: 4 yeas, 0 nays, 2 absent. Motion carries.

Senator Luick will carry the bill.

19.0789.02001
Title.03000

Prepared by the Legislative Council staff for
Senator Dwyer
March 11, 2019

88
3/12
1001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1395

Page 2, line 4, replace "all treatment recommended as a result of those evaluations" with
"treatment recommendations as ordered by the court as a condition of probation"

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1395**

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 19.0789.02001

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 Vice Chairman Dwyer Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	AB				
Senator Osland	AB				

Total (Yes) 4 No 0

Absent 2

Floor Assignment _____

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

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1395**

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 Senator Luick Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	AB				
Senator Osland	AB				

Total (Yes) 4 No 0

Absent 2

Floor Assignment Senator Luick

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

REPORT OF STANDING COMMITTEE

HB 1395, as engrossed: Judiciary Committee (Sen. D. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1395 was placed on the Sixth order on the calendar.

Page 2, line 4, replace "all treatment recommended as a result of those evaluations" with "treatment recommendations as ordered by the court as a condition of probation"

Renumber accordingly

JOURNAL OF THE SENATE

Sixty-sixth Legislative Assembly

* * * * *

Bismarck, March 15, 2019

The Senate convened at 12:30 p.m., with President Sanford presiding.

The prayer was offered by Pastor Allen Finger, Bismarck Baptist Church, Bismarck.

The roll was called and all members were present except Senators Klein and Osland.

A quorum was declared by the President.

MOTION

SEN. HOGUE MOVED that the Senate reconsider its action whereby Engrossed HB 1395, as amended, passed.

MOTION

SEN. HOGUE MOVED that Engrossed HB 1395, as amended, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Hogue's motion, Engrossed HB 1395, as amended, was rereferred.

The question being on the motion to reconsider the action whereby Engrossed HB 1395, as amended, passed, the motion prevailed on a verification vote.

MOTION

SEN. HOGUE MOVED that the Senate reconsider its action whereby Engrossed HB 1517, as amended, passed.

MOTION

SEN. HOGUE MOVED that Engrossed HB 1517, as amended, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Hogue's motion, Engrossed HB 1517, as amended, was rereferred.

The question being on the motion to reconsider the action whereby Engrossed HB 1517, as amended, passed, the motion prevailed on a verification vote.

CONSIDERATION OF AMENDMENTS

HB 1126, as engrossed: SEN. O. LARSEN (Human Services Committee) MOVED that the amendments on SJ page 934 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

HB 1179, as engrossed: SEN. DWYER (Transportation Committee) MOVED that the amendments on SJ page 934 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

SECOND READING OF HOUSE BILL

HB 1108: A BILL for an Act to create and enact three new sections to chapter 50-25.1 of the North Dakota Century Code, relating to child abuse and neglect family services assessments and evidence-based screening tool records; and to amend and reenact section 50-25.1-02, subsection 1 of section 50-25.1-03, sections 50-25.1-05, 50-25.1-05.1, 50-25.1-05.4, 50-25.1-06.1, and 50-25.1-09, subsection 2 of section 50-25.1-11, and subsection 8 of section 50-25.1-15 of the North Dakota Century Code, relating to child abuse and neglect and family services assessments.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

2019 SENATE APPROPRIATIONS

HB 1395

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1395
3/22/2019
Job # 34158

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning / Carie Winings
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Explanation or reason for introduction of bill/resolution:

Relating to requiring evaluations for individuals convicted of child abuse.

Minutes:

No Attachments

Legislative Council: Sheila Sandness
OMB: Stephanie Gullickson

Chairman Holmberg: Called the committee to order on HB 1395.

Senator Dever: There is some confusion about the way the Senate and House Appropriations conduct business. The House on this bill, the chairman of the policy committee would be testifying so the sponsors don't realize that they should do that in the Senate.

Chairman Holmberg: So we sit with no information.
(Senator Dever went to get Representative Schauer from committee)

(3:14) Representative Austin Schauer, District 13: In West Fargo a couple of years ago, we had an unfortunate incident where a father of a two-month old child took that baby and hit the baby twice in the face with his fists and broke several bones. It took a while before we determined that he did it. The father eventually confessed and was convicted and sentence to 5 months. Through the course of having a very good attorney, he spent 12 days in the Cass County jail. The mother had contacted me from West Fargo and asked for a change. HB 1395 is specific to anyone that is found convicted of this kind of offense would have to have some sort of mental evaluation. It is to help that person, but also some type of consequence. This situation in particular, the father has supervised visitation with his now 18-month old child. By the end of this year he will have unsupervised visitation of the child that he abused. There are some holes in the system, and this is what we are trying to correct.

Senator Grabinger: Was there any discussion through the whole process about jurisdictions not having the ability to provide these evaluations that are requested in here? My thought is that they'd have to send the criminal off quite a distance to have these evaluations done. Was there any discussion about that?

Representative Schauer: There was some discussion on that. The idea that you are from Bowman or outside the area and where could you go for the evaluation. The thinking of the previous Senate committee was that they did not think it was asking too much for someone who was convicted of child abuse, especially a child that is less than 2 years old, to be able to go and get some help. Driving to Bismarck, Dickinson, or Williston would not be asking too much of someone who has been found guilty of this crime.

Chairman Holmberg: Thank you. (Asked to hear about the fiscal note.)

Tom Eide, CFO, Department of Human Services: The fiscal note that was attached to this is about \$371,000. That is largely around the resources required to add these additional evaluations. It is about a 1.5 FTE of an advanced clinical specialist. How we might actually logistically serve that could be that we would hire these resources in part in various centers or that we could hire them use our telehealth to facilitate the evaluations. One of the important points that I want to make in general about this is that this is another bill with a fiscal note that has no appropriation and this particular note is not accounted for in HB 2012. This would be an expense we would want to see an appropriation for from the department. This is happening with a few bills and I will be speaking to them.

Senator Mathern: I don't see anything in the bill that would require your department to do this evaluation. Wouldn't it be up to the court to determine who would do the evaluation? Could it be paid for by the accused?

Tom Eide: What we did was take a percentage of what we would anticipate coming through the human service centers. The fiscal note looks at roughly taking a 20% and 40% number of the total number of convictions that went through.

Senator Wanzek: The 1.5 FTEs within the department, what would be their role? Would they be doing the evaluations? Would they be providing the management assessments or administering the program to oversee the providers?

Tom Eide: These positions would be doing the initial evaluations to determine where they are at in progress and then also providing treatment. This is a specific skill to understand these situations. It is an advanced clinical specialist level that would do that.

Senator G. Lee: In looking at the fiscal note, it says that the average of the last 4 calendar years had 91 convictions of child abuse. So you are suggesting that 40% of those would be taken care of by Human Services. That is about 1 a month, and that would require 1.5 FTEs?

(9:40) Tom Eide: It involves ongoing treatment as well, and the evaluations are fairly extensive. There would be a number of hours that would happen with each evaluation. It would be just a day half to get the evaluation completed. Some of that is the in person interviews and it is compilation of the data. These types of situations are done in human service centers and we feel the estimate is fair. Ultimately we are trying to be prepared for a volume of business. Ultimately, it depends on the judges work as well.

Senator Dever: Is this to mandate what the judges already have the latitude to do?

Tom Eide: I can't speak to that particularly. I am not well versed in that part. I am looking at this, and figuring out what we would have to do to provide the resource. I suspect that judges can do some of this already.

Senator Dever: It seems to me that the judge can provide an order that all of this happen, but unless it is a condition of probation, the accused does not have any mandate in this to follow through with it.

Senator Hogue: Yes, they can order any and all of those.

Senator Poolman: I am wondering logistically, who decides if they are in violation of the court order? Do you then have to call all the courts and notify if they do not show up for an appointment? Do we make an exception if they do not have transportation etc.? Who decides if they're in violation and who would report that?

Tom Eide: The Human Service centers actually deal with a number of court ordered treatments of various types. It is similar on the private side. If someone misses a court ordered treatment, we are required to report it back to the court. It does not mean that, if someone can't make it to an appointment and the reschedule, there isn't allowances for that.

Senator Poolman: In your experience, when it is court ordered, then who decides when they are in violation? Where is the line?

Tom Eide: I would defer that to a clinical person. What I've seen is that we're relatively quick to inform the court of situations like that, because we are trying to avoid, with public or private provider, we are not interested in being complicit in a behavior thing. Not compliant in behavior.

Senator Dever: When I am looking at the fiscal note and it says based on the population, Medicaid, Medicaid expansion, and uninsured persons; so, those would be people that you would provide services to. Would other people need to go to a different provider?

Tom Eide: We were trying to anticipate how many we would get of a total number. We anticipated that someone who had private insurance likely would not come into the Human Service Center and would go to a private provider. We looked at crowd as who is uninsured and who has Medicaid. That was part of our differentiation of where it's going to come from.

Senator Wanzek: It has been established here that a judge can already do this. Can I extrapolate out of the fact that you aren't doing it because you need the FTE?

Tom Eide: We do some of that now, but we expect the volume to increase with that additional requirement. We treat a number of different things, whether it is children or adults who are dealing with abuse, sexual violations, etc. We have that in our portfolio already, but this is just really anticipating a volume of things that we need to respond to.

Senator Mathern: Would it not also be the case that these people required to do this, who are under a certain level of poverty, way have that service covered by their Medicaid program

and they would not come to the Human Service Center. So, the 1.5 FTE might not be hired, but you might cover the service that might cost the same.

Tom Eide: That is why we tried to do the estimate. You are correct that certain Medicaid enrollees may be able to find the service elsewhere. That is why we projected based on what we see. There are 18,000 new clients that come to service centers every year, so all those numbers came together to try and create this estimate.

Senator Mathern: What if you didn't have that 1.5 FTE, would you pay for this service as a Medicaid service? Or is this outside of Medicaid service eligibility.

Tom Eide: I am not sure what components of this may be fully covered by Medicaid or not. My anticipation is that, especially around some of the treatment, that should be covered under some of the Medicaid especially with some of the services that we continue to work into our system. But, there may be components of it that aren't.

Chairman Holmberg: How would envision the Human Services handling this issue if we pass the bill and you were unsuccessful in getting the budget, SB 2012, changed?

Tom Eide: We would have to fulfill it. It is required statutorily, so it will add to wait times in an already overloaded service area. It is a highly pressured resource at the centers already. We don't want to push other appointments into longer wait times when this service is so needed.

Senator Mathern: In light of that, do you know if the House passed the bill without appropriation acting irresponsibly, or did they think the money was already in the department budget?

Tom Eide: I was not in the House committee hearing when they passed it. They did pass it without the appropriation obviously since we are here having the conversation.

Chairman Holmberg: The bill went thru the Judiciary Committee in the House and then thru Appropriation Committee. It was sent out on 2/14.

Senator Mathern: Maybe we should put an appropriation on it and send it back.

Senator Dever: The fiscal note is dated 1/21, so they had the fiscal note.

Chairman Holmberg: Maybe they thought they were going to fund it in the budget, or maybe they lost track of it. We will think about this bill for a while. Closed the hearing on HB 1395.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1395
3/26/2019
Job # 34241

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning / Carie Winings
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Explanation or reason for introduction of bill/resolution:

Relating to requiring evaluations for individuals convicted of child abuse.

Minutes:

No attachments

Legislative Council: Adam Mathiak
OMB: Stephanie Gullickson

Chairman Holmberg opened discussion on HB 1395.

Senator Dever: This fiscal note for this bill was \$371,000 general and the same amount federal. I believe we're trying to mandate something that the courts have the latitude to do anyway, I'm not sure we should involve ourselves in that. It's a good idea, and they should do that.

Senator Robinson: My recollection from the testimony last week, it's not happening, the courts are not dealing with this to the extent that they should. They were very lenient. I'm not certain we don't need it.

Senator Wanzek: With this language, it's mandating that the order include this requirement? Where today it's up to the discretion of the court or judge?

Senator Dever: That's my understanding, Senator Hogue confirmed that during the hearing.

Senator Bekkedahl: I was just confirming that on page 2 of the bill the last section says, 'The courts SHALL include in the sentence an order.' So it is a mandate.

Senator Robinson: Wasn't this the testimony where the individual who committed this crime was out in a few days. The leniency of the judgement against them was beyond words. I thought it should have been much more difficult.

Senator Dever: We don't know what the court order said, it may have prevented the adult from having any activity with the child.

Senator Robinson: They did discuss some of that, point being that the order must have been pretty soft to allow the person to be back on the street in 5-6 days. For a crime of this nature against a young child.

Chairman Holmberg: You had discussion about the fiscal note, Senator G. Lee asked about the last four calendar years had 91 convictions. They are suggesting that 40% of those would be taken care of by Human Services, that is one a month, and they wanted 1.5 FTEs.

Senator G. Lee: I that number would be understated, and would be more like four per month. It seems like a few number of patients for 1.5 FTEs in terms of the hours.

Senator Mathern: I would say that we should decide on this, not just on this one case in West Fargo. There are a lot of individual facts to consider. We don't know those facts in that case. The general protection of children was brought before the Human Services Committee, they brought this bill to us, and it doesn't really mandate any treatment or prison term. Those are still within the discussion and direction of the jury and court. This says we shall have a higher standard of assessment that is required and given to the authorities, in hopes there will be more protections for children going forward. In order to accomplish that higher assessment level and protection, we have to fund those assessment services. This is what the Department says it will cost. I don't know if this is one of the four where they said they were going to put the money in, if they did, I think we should pass this bill.

Chairman Holmberg: In looking at the testimony and discussion and Senator G. Lee saying that it will be four per month, you are talking 1.5 employees for one case a week?

Senator Bekkedahl: That was my question, I don't want to put our Human Services people on the spot, but does the committee ever pass a different number than the recommendation in the fiscal analysis? I'm not trying to second guess what they do. It's a very large department with a lot of personnel, is there a way to do this with less and utilize personnel within the system to a higher degree?

(7:42) Chairman Holmberg: If you pass the bill, they will have to lump it. In the past, if you have looked at a bill and didn't like the fiscal note, we will determine our own number. We have done that also. It depends on feeling of the bill, and whether we need it or not.

Senator Oehlke: On Section 4, it says "as ordered by the court" as a condition of probation. The judge can make various recommendations from his choices there on parental capacity, etc. Then in looking at the fiscal note, it says that they will undergo evaluations and assessments, as well as participate in treatment recommended as a result of the evaluations. Don't judges do that now? Aren't we saying again what Senator Dever brought up in the first place, that yes, Mr. Judge, we want you to do what you're doing? Isn't that what they do when they have someone that is involved in a situation like this in front of them. Don't they get to make those recommendations now and enforce them? This almost sounds like it is optional for them when you look at the fiscal note.

Senator Grabinger: This went thru Human Services Committee, correct?

Chairman Holmberg: No, this is judiciary.

Senator Grabinger: I wonder if the state's attorneys in the interim weighed in on this? I would be interested to hear what their thoughts are. I would think that would be relevant.

Senator Sorvaag: They can do it now, but this just says they have to do it, because obviously there was a situation where it fell thru the cracks. Do we need to spend the money to say the judge has to do it and it is no longer an option? That is really is all we have in front of us. Yes, they can do it now. I'd agree that \$371,000 is a lot of money, but if we can help a couple kids a year, that's a cheap investment.

Senator Wanzek: In this case, the perpetrator punched the child, how would a parental evaluation help this situation? I am beginning to wonder why we aren't mandating that they get a certain amount of prison time. I am beginning to think that maybe leaving it to the judge in each unique circumstance would be ok. I'm just trying to understand how it would have helped that individual in order to do this. I can't imagine anyone punching a child in the face. It seems like incarceration would be more appropriate.

Senator Robinson: Was there psychological issues, control issues, or was the individual under the influence of something. We don't know all of those circumstances. To Senator Sorvaag's comment, but if we can prevent or minimize for a child down to a child or two a year we are doing a lot. I cannot imagine that. I was upset listening to the testimony. How can anyone do this? I'm not for mandatory sentences and so on, but I think there are some situations that require us to be pretty tough and pretty directive. Something fell thru the cracks.

Senator Dever: It may be useful to recognize that Subsections 1-3 are class A, B, and C felonies. There are some pretty serious situations, and we don't mandate that. The maximum penalty, the judge can suspend or defer the sentence. Each of those is "up to" that penalty.

Chairman Holmberg: We have no motion in front of us?

Senator Robinson: Would the committee feel better if we reduce the FTE somewhat to reduce the cost? If we went to 1 FTE instead of 1.5 FTE, would that be better?

Chairman Holmberg: There is no FTE in here.

Adam Mathiak: The fiscal note is a reflection of the estimated costs that the department would incur for this if it went forward. Typically, a lot of those are handled in agency budget. If no additional FTE is provided in the department's budget, but this passes, they would need to come up with a way to do it. This bill does not have any funding or FTE authorization in it.

Chairman Holmberg: Has the department approached the budget writers in the House to insert funding for this bill?

Chris Jones: I believe so. They were talking about how to move those into SB 2012. We do have a goldenrod sheet where this is one of the four bills that is on there.

Senator Mathern: I would suggest to you that the shortest route is just having clearer incarceration penalties, and then you don't have to worry about assessments and treatments. It solves the immediate feeling we have about someone who would do this, but it doesn't solve the long term problem of too many people in prison or people in families not getting the treatment they need. Generally, it's not just one bad guy, but a family system that bad guy is a part of. That system needs some attention. I suspect this could create additional costs. There could be more problems with kids, and relational problems. The \$371,000 may be too low if you try to help the whole system to become healthier and prevent a guy from bashing a kid in the face. I don't encourage us to think about reducing the appropriation. I believe that in looking at the details, it doesn't get simpler. It highlights the need for additional supports for other people involved. I would encourage us to pass the bill with that awareness, or defeat it if we don't want to add that additional protection. But, to reduce the amount of appropriation or create some restrictions on what can be done is probably an illusion about having positive impact.

Chairman Holmberg: That is probably that should be handled in the budget and that budget will be over here in a conference committee.

Senator Mathern: Moved a Do Pass.

Senator Wanzek: Seconded the motion.

A Roll Call Vote Was Taken: 6 yeas, 8 nays, 0 absent.

Motion failed.

Senator Dever: Moved a Do Not Pass.

Senator Oehlke: Seconded the motion.

Senator Grabinger: Could we offer amendment? I have an idea that might make this palatable to some of us. On Page 2, Line 3, we remove "and anger management" and put in "or all three". Essentially, that says they will get an assessment, and it will be the judges determination if they get an assessment or possibly get all three and to complete the treatment recommendations of the assessment.

Chairman Holmberg: Does your idea continue the order by the court as a condition of probation?

Senator Grabinger: Yes. It is ordering one of those assessments or all three. Instead of demanding that all three be done.

Chairman Holmberg: Let's vote on the motion on the floor, and if it passes then we are done. If it doesn't pass, we will take a recess on the bill and have you draft some language.

Senator Dever: I would feel more comfortable than that amendment if we just change shall to may in Line 2. It just draws to attention to the judge.

Senator Grabinger: We could do that and that is already what is in order. The judge already has those option already.

Chairman Holmberg: Then why would we have the bill?

Senator Grabinger: Exactly. If you do what I suggested, they have to do an assessment.

Chairman Holmberg: We have a motion. Let's vote first and then see about an amendment.

**A Roll Call Vote Was Taken: 9 yeas, 5 nays, 0 absent.
Motion Carried.**

Senator Dever will carry the bill on the floor.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1395
3/28/2019
JOB # 34309

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alice Delzer

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to requiring evaluations for individuals convicted of child abuse; and to provide a penalty.

Minutes:

No testimony submitted

Chairman Holmberg: opened the discussion regarding HB 1395. All committee members were present except Senator Hogue. Alex Cronquist, Legislative Council and Larry Martin, OMB were also present.

Senator Dever: I think this is an 8 to 5 vote. It is the bill that involves the child abuser and the issues that we came with it here was not about the money, but about the discretion of the judge to require treatment. Some of the information that has come to each of us, and I've gotten more probably than others, I think would suggest we might want to reconsider that decision, but I don't want to bring the bill back. The situation is that I understand it is that the perpetrator was charged and convicted of a Class B felony. That he wore an ankle bracelet for a while and served 12 days in jail. There was no such thing as treatment or anything provided for. That he currently has visitation rights under supervision, but the supervision requirement will go away. I'm going to carry the bill and I am going to make a pretty forceful argument for the bill. It only requires that that treatment place take place. It does not question the discretion of the judge in setting the penalties.

Chairman Holmberg: You have received some information from folks. You certainly are free. I have one person that said they have reconsidered. The discussion points about the fact that they would need 1/1/2 FTEs in order to carry out this program, where the numbers indicated a pretty small number of cases, and then someone wrote and said that number is wrong, that's really a lot more that would be involved. But certainly go ahead and vote how you feel on the bill after the discussion on the floor.

Senator Dever: It passed 46 to 0 last time. I make the point that we have the unique opportunity today to improve on perfection with a 47 to 0 vote.

Chairman Holmberg: Thanks for carrying the bill. The discussion was closed on HB 1395.

Date: 3-26-2019Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES**
BILL/RESOLUTION NO. 1395

Senate Appropriations 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 Mather Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Senator Holmberg		✓	Senator Mather	✓	
Senator Krebsbach		✓	Senator Grabinger	✓	
Senator Wanzek	✓		Senator Robinson	✓	
Senator Erbele		✓			
Senator Poolman		✓			
Senator Bekkedahl	✓				
Senator G. Lee		✓			
Senator Dever		✓			
Senator Sorvaag	✓				
Senator Oehlke		✓			
Senator Hogue		✓			

Total (Yes) 6 No 8

Absent 0

Floor Assignment _____

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

motion failed

Date: 3-26-2019Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES**
BILL/RESOLUTION NO. 1395

Senate Appropriations

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 Dever Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	✓		Senator Mathern		✓
Senator Krebsbach	✓		Senator Grabinger		✓
Senator Wanzek		✓	Senator Robinson		✓
Senator Erbele	✓				
Senator Poolman	✓				
Senator Bekkedahl	✓				
Senator G. Lee	✓				
Senator Dever	✓				
Senator Sorvaag		✓			
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 9 No 5Absent 0Floor Assignment Dever

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

REPORT OF STANDING COMMITTEE

HB 1395, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1395, as amended, was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1395

#1
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1-29-19
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Good morning Mr. Chairman and members of the Judiciary Committee.

Thank you for your time and service.

My name is Austen Schauer, a representative from West Fargo - District 13 and I'm here to ask for your support of **HB 1395**.

This bill seeks to **require evaluations** for individuals convicted of child abuse and to provide a **legislative study** of the state's process of handling child abuse cases to ensure **all involved entities** are working together to **protect children**.

This proposed legislation comes on the heels of a tragic story of child abuse in West Fargo.

On September 29, 2017, a West Fargo resident noticed her two-month-old son was not himself. The boy was examined by a doctor whose diagnosis was "**failure to thrive**."

On Nov. 13, 2017, it was determined the boy had been physically abused at home and was admitted to the hospital.

Four days later, **the father** confessed to the crime and was charged with a **Class B Felony**. Six months later, he pleaded **guilty** to the felony charge.

In August of 2018, the father was given a **five-month sentence** with all but **12 days** waved.

The boys' mental health professional and pediatrician sent letters to the Cass County judge asking that the father **not be allowed** to see the child for **five years** due to the trauma from the abuse.

The judge ruled against that recommendation and gave the father **supervised visitation** and after one-year, **unsupervised visitation**.

That decision was made without a court-ordered evaluation, treatment or rehabilitation for the father.

Unsupervised visitation will begin in October 2019. That means the perpetrator, convicted of a Class B Felony and spending only 12 days in jail, **will have full access to the victim, who will then be two-years-old.**

Mr. Chairman and members of the Judiciary Committee, we believe **justice was not served** in this case and we hope that never happens again.

It is why we seek your support of **HB 1395**.

Section Number One:

We are asking you to add this Amendment of Section 14-09-01 on page 2, lines 1-4:

4. For any person who pleads guilty or is convicted of an offense under this section, the court shall include in the sentence an order for the person to complete a parental capacity evaluation, mental health evaluation, and anger management assessment, and to participate in all treatment recommended as a result of those evaluations.

Section Number Two:

We are asking for your support of a **Legislative Management Study - Implementation of Family Law Court.**

Page 2, lines 6 thru 14 read:

During the 2019-2020 interim, the legislative management shall consider studying the state's process for handling child abuse and neglect and domestic violence cases to ensure all involved entities are working together to ensure the protection of children.

The study must consider the feasibility and desirability of separating family law cases, in particular child deprivation and abuse and neglect cases, from other cases in the state judicial system, and the benefits of implementing a specialized family law court system that includes specialized training for family law judges.

The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the 67th legislative assembly.

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Mr. Chairman, we believe this study would be helpful to the future of the criminal and civil justice systems. It would focus on the **relationships** between criminal child abuse neglect, children's protective services, domestic violence, civil custody issues and termination of parental rights procedures to assure that all related partners are working together to **protect children**.

Mr. Chairman and members of the Judiciary Committee, we urge your approval for **HB 1395** and I am open to your questions.

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Chairman Koppelman and Members of the Judiciary Committee-

My name is Amy Kempfer. I want to start by saying how much I appreciate your time and attention today. I can only imagine how long your days start to become listening to testimony on bills that you may or may not be passionate about. The good news is, I am about to talk to you about an issue that seems to truly be non-partisan, and also one that effects every single one of you, as well as every one of your constituents. The bad news is, it is a gruesome topic. I am going to try and get through this testimony without tears, but please forgive me in advance if that is not possible. I will pass around written copies of what I will be saying, some photos, some additional informative documents, and some of the letters that people forwarded to me after sending them to other representatives.

The first photo that you will see is a picture of my son, the victim identified by Representative Schauer, and his proud big brother. My son was born on 08/05/17 at 41 weeks at 8lbs 11oz, the 87th percentile, and as healthy as can be, and a good baby. Over the next month, my son's demeanor started to change, and he started to become very "colicky". I use quotation marks because I look back and assume this was when the child abuse started. On 9/29/17, my son was refusing to eat. I brought him in to the doctor and his diagnosis was a "sore throat", and his weight percentile was down to the 26%. One week later on October 6th at a follow up with his pediatrician that I scheduled because my son was so inconsolable and still refusing to eat, he was down to the 8%. He was officially diagnosed with failure to thrive and "silent reflux". The next month of my life I spent dedicated to figuring out how I could get my son to gain weight. My pediatrician recommended we try getting some donated breast milk. I was happy to oblige, and my family and friends helped me search for breast milk I could give my son. I visited a feeding specialist. I researched and read everything about failure to thrive, reflux, colic. My son was only comfortable upright in a baby carrier snuggled with me, and boy do I wish I had the total hours I had that thing on because it would likely shock us all. But- I was happy to do it because it was one of the only times my baby wasn't screaming. I wish I had a recording to play you of his cries. They were more like shrieks. It was so clear he was in pain, but I could just never figure out why or what to do for him. I would sob with him sometimes, pleading with God to help me help my son. Little did I know, my two-month old son had multiple broken ribs.

My son received a full exam from top to bottom every week from the best physician in town. We would recount ounces consumed, would analyze his progress together, and would make a plan for the next week. I lived in constant anxiety of how many ounces my son had consumed. My legs and back would ache so deep it felt in my bones from the constant gentle bouncing needed to soothe Brooks. I stayed up to dream feed him bottles to maximize the ounces he would take in, setting alarms for every two hours to feed him more. During this time, we had to postpone daycare because of the concern that my son would get sick and loose even more weight. We also couldn't vaccinate him.

I went out of town for a work conference the weekend of November 10th. My sons father, and husband at the time, assured me everything would be fine and that I would get lots of photos and updates. I set up people to check in and help every day, just in case. When I came home, my baby was sleeping soundly and his father reported that they had a great weekend. What I awoke to was a horror no parent should have to be subject to, my baby had two back and blue eyes.

Because I am a trained physician myself, an instantaneous sinking feeling set in along with a list of differentials: neuroblastoma, clotting issue, trauma. My son's father of course acted shocked, and assured me he absolutely could not think of anything that would cause this. We rushed our baby to the doctor, and as you've heard me describe already, this was a place all too familiar to Brooks and I. Our pediatrician admitted for further observation. I can vividly see, and replay often, the reaction in my ex-husband's eyes as we drove to the hospital. I must say, the ease in which he funneled his fear of being discovered into a façade of anxiety over the well-being of his son, astounds me to this day.

The next photos you will see are ones of my son the day we were admitted. Do you see how little he is? Look at how lifeless his eyes are behind those bruises.

Tuesday morning, November 14th, I was hit with news that literally took my breath away and knocked me on to the hospital floor as I shrieked in agony. My son had five broken bones in addition to his facial bruising, and someone had done this to him. The fractures were in multiple stages of healing, meaning, they were done on different days. Some of the fractures were a month old, and there were 2-3 dates of fractures. Many people wonder how we could miss multiple broken bones over the course of a month. You see, infant broken bones don't always bruise. They don't have enough soft tissue to cause a reaction. I was told there would be an officer and social worker by at some point, and that an investigation had been opened. The only other person that had been alone with my son the weekend I was gone was my mother-in-law. My ex-husband continued to deny harming his infant, and initially blamed his mother.

On Friday November 17th, the detective and social worker we had been working with entered our hospital room and asked everyone else to leave. They proceeded to inform me that my son's injuries were in fact non-accidental trauma, aka child abuse. Because of the severity and lack of a responsible party, my son would not be going home with us. It was at this time that my ex-husband made a statement to police that he had caused all of the damage. After five days in the hospital, \$31,000 in medical care and testing, numerous imaging studies, laboratory tests, and physician consults, I was allowed to go home with my son. My ex-husband walked freely out of the police station that day, and was never placed under arrest. He was moved out of my home that evening, and in the blink of an eye, I became solely financially responsible for our mortgage, and all of Brooks' medical bills and care.

I retained a very competent divorce attorney. We then filed for a domestic violence restraining order for Brooks, the victim in this case, as well as my other son and myself. **It was denied.** I also vividly remember the astonished look on my attorneys' face when we lost that hearing.

Many well-meaning individuals have said things like "well, at least he won't remember what happened" and "at least he won't have any permanent damage". While my son's broken bones and bruises have healed, it will be years before we know the full breadth of these injuries on his spirit. The long-term impact of child abuse is substantial and complex. Child maltreatment causes stress that can disrupt early brain development. Stress during critical periods of childhood brain development can impair, often permanently, the activity of major neuroregulatory systems, with profound and lasting neurobehavioral consequences. This in turn affects healthy and quality life throughout the lifespan. According to the CDC, children that have experienced trauma are at

risk for improper brain development, impaired cognitive and socio-emotional skills, lower language development, high risk for heart, lung and liver diseases, obesity, cancer, high blood pressure, and high cholesterol. Child abuse victims are at increased risk for anxiety, smoking, alcoholism, and drug abuse. The stress of chronic abuse may cause a “hyperarousal” response in certain areas of the brain, which may result in hyperactivity and sleep disturbances. In one long-term study, as many as 80% of young adults who had been abused met the diagnostic criteria for at least one psychiatric disorder at age 21. These young adults exhibited many problems, including depression, anxiety, eating disorders, and suicide attempts. A National Institute of Justice study indicated that being abused or neglected as a child increased the likelihood of arrest as a juvenile by 59%. Abuse and neglect also increased the likelihood of adult criminal behavior by 28% and violent crime by 30%. Child abuse and neglect can have a negative effect on the ability of both men and women to establish and maintain healthy intimate relationships in adulthood.

The judges in my case specifically said things like “Oh, at least he was young and he doesn’t even remember his father”. I had another judge say “I really don’t know what they do in juvenile court”. During trial, our judge didn’t understand why he should hear testimony from social services, or why it mattered that the abuser wasn’t willing to take a mental health evaluation, parental capacity evaluation, or anger management evaluation. The unfortunate reality is that the overwhelming majority of judges in our system are not trauma informed. In my opinion, we need judges that understand the complexities of child abuse, neglect, and maltreatment. We need judges handling these cases that understand how social services works and the understand the many layers of domestic violence. HB 1395 asks you to implement a study to consider the feasibility and desirability of separating these types cases and having them heard in a family law court system.

HB1395 also asks that you make a parental capacity evaluation, a mental health evaluation mandatory. These are fairly standard requests from county social serves departments in these situations. Unfortunately, they don’t have the teeth to enforce them. Not to mention, many parents don’t follow through with recommendations as they let their children be absorbed by the system. These abusers then go on to interact with other children. Thus, the rehabilitative component of this process is missed. This is absolutely imperative, and I do believe will save lives. This will also help support our county social services departments enforce their recommendations. In my case, because I was a safe parent, social services didn’t do anything to help me protect my child. They told me it was an issue for civil court to work out. In civil court, requesting these items would likely have fallen under my financial responsibility. I spent about \$50,000 in civil court attempting to protect my child. This is unacceptable. The overwhelming majority of victims wouldn’t have the resources to do this.

This crime has affected my life, my children’s lives, my family and friends, my coworkers, my patients, and strangers in our community in more ways than you can ever imagine. It created a ripple of effects that tore through our lives like a hurricane without warning. This crime robbed me of a cherished time in a parent’s life- the newborn stage of their child. Instead of being able to enjoy the bliss of a baby, I have spent my son’s early years in doctor’s offices, the hospital, and the courtroom fighting to do everything I can to help him thrive. I never got a snuggly baby. To this day, my son doesn’t like to be cuddled. I can’t rock him. I can’t hug him. Putting him in a

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car seat triggers a trauma response, and he screams and fights violently every single time. Getting him dressed is very distressing most days. My baby didn't get a peaceful newborn stage- he got pain and doctor visits. Five broken bones. Two black and blue eyes. Months of doctor visits. My baby didn't deserve this. No one deserves this. But let me stress this to each and every one of you- it could happen to you and someone you love too. No one is immune.

Please vote yes, 14-0, and help ensure there is a rehabilitative component for crimes against children. Help ensure we study the best and most appropriate ways to handle cases like mine in the future, so other children and families are taken care of in the most appropriate manner.

Thank you for your time.

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Chairman Koppelman and Members of the Judiciary
Committee

My name is Kim Radermacher.

Thank you for your time this morning and the opportunity to speak with you regarding HB1395 and ~~HB1396~~. ^{This bill that we have} ~~These bills~~, Knick Named "Brooks Law" ^{is} ~~are~~ important to me because I am a very close family friend with Amy and Brooks Kempfer. Amy's oldest son calls me Gamma Kim as I am sure Brooks will once he is verbal. The subject of ^{this} ~~these~~ bills is a difficult one and involves our States voiceless citizens. The topic of child abuse is not something we like to sit around and casually discuss. The details are heart wrenching and they disturb the picture in our mind of how children are supposed to be treated. I wont bombard you with statistics and studies, but rather I will share with you a story of survival.

I the mid 70's, between the ages of 8-10, I suffered unspeakable childhood trauma at the hands of a distant relative. My brain repressed this trauma until I was in my mid twenties. I am now 50 years old and have spent the last 25 years trying to figure out how to function as a survivor. You may be wondering what this even has to do with these two bills that seek to define mandatory sentencing and mental health of abusers. You've heard Amy's testimony about the horrific physical abuse Brooks suffered as a tiny infant. Over the passed 15 months I have shared this story countless times and far too often, people will summarize the account by saying "Thank God he'll never remember." Well, I didn't "remember" either until many years later. Brooks will, at some point in his life, know that he was violently injured at the hands of his father. A parent is one of the few people who should want to

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die in an effort to protect you, not hurt you. Not only will he one day know he was hurt by his father, but he will know that his father spent a mere 9 days in jail as punishment. He will know that his suffering was only worth 9 days, in the eyes of our states Judicial System. While Brooks physical injuries have long since healed, his emotional and physiological trauma will last his lifetime. Brooks has been court ordered to begin the reunification process with his abuser. His abuser spent the better part of the last 15 months avoiding mental health evaluations, parental capacity exams and has even testified in court, under oath that he still isn't even sure he actually DID the abuse. When asked why it happened he nonchalantly says "I don't know, I guess I just snapped." But by all means, lets put this non-verbal, highly traumatized child in a room with his abuser who hasn't been evaluated for the threat of repeating his snapped behavior. We wouldn't take an adult abuse survivor and put them in a room with their abuser and tell them to just deal with it....Why do we expect this of an infant. These mental health evaluations and therapy should take place BEFORE the abuser is allowed to embark on potential reunification. I can assure you Brooks will have triggers of the actual events, the rest of his life. A certain smell, a certain look, a sound...any one of these things or all of them will trigger his fight or flight and put him right back in his moments of terror. The conscious mind may not remember but the subconscious mind never forgets. Over the last 25 years I have been diagnosed with depression, anxiety and PTSD. I have nightmares. I have struggled with substance abuse, risk taking behaviors, blaming myself for the abuse, bouts of anger and fear that seemingly have no explanation. I've been counseling in some capacity or another over this long time span as well. So when someone says "thank god Brooks won't remember", I nod, because the truth of the matter is just too grim.

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P. 3

I never accused my abuser. You didn't do those things back then. I have traveled this road of childhood trauma mostly alone. My abuser went to his grave only having to deal with his own demons. There has to be better than this. Abusers have to be held accountable for their actions, have intense therapy to figure out why they "snapped" and children need better protection in the reunification process if it is to happen at all! The ability to produce a child should not give you the RIGHT to be in that child's life if you have violently abused them. I think of all the very tiny children who have been abused or even DIED at the hands of their parents or guardians in this state in the last 15 months at it is atrocious. Many of them were repeat offenders or had just slipped through the cracks of CPS. Mandatory sentencing and mental health therapy may have made all the difference in any one or all of those cases. Children who cannot verbalize or emotionally process their surroundings deserve better protection from their abusers.

I have spent decades saying "why me, why did something so terrible have to happen to me." I now know that it was for this moment in time. This moment to be able to speak to each of you, as a childhood trauma survivor, and say HB's 1395 and 1396 are important, they matter, and our voiceless citizens of this great state deserve our help. Thank you

North Dakota 66th Legislative Assembly
HOUSE JUDICIARY COMMITTEE
Hon. Rep. Kim Koppelman, Chair
Hearing on January 29, 2019

#4
HB1395
1-29-19
RJ

Re: Testimony in Support of House Bill 1395

Chairman Koppelman and members of the Committee, I am Reid Brady, Assistant Cass County State's Attorney. I support House Bill 1395.

Improving the skills of caregivers is a key purpose of House Bill 1395. Many child abuse offenders either maintain a relationship with their victims or seek to reunify with their victims. Sometimes offenders are ordered to complete a diagnostic assessment or to comply with recommendations from social services. But such orders are not required and not always issued. Nor are they targeted to the special dynamics of child abuse and offenders' treatment needs.

House Bill 1395 would remedy that loophole by requiring a parental capacity evaluation, mental health evaluation, and anger management assessment and participation in recommended treatment for all persons who plead guilty or are convicted of child abuse. These requirements would help caregivers identify their needs and seek appropriate treatment to address those needs.

Another key purpose of House Bill 1395 involves improving the entire court system. When child abuse occurs, there are often multiple cases. There could be a criminal case in which the caregiver is charged with an offense, and the state seeks penalty and rehabilitation. There could be a civil child deprivation case in which the child is alleged to be deprived, and the state seeks to provide appropriate services for the child and caregiver. There could be a civil case between two parents seeking custody of the child. Often information obtained in one of the three cases is relevant to all three cases but is not readily available in the other cases. Moreover, information may be highly specialized, e.g., the potential developmental impact of contact between an untreated caregiver and the abused child.

The Aaron Kempfer case highlights how helpful this bill would be. I recently prosecuted Aaron Kempfer for abusing his infant son. No part of the sentence imposed upon Kempfer included specialized evaluations or treatment for a caregiver. While the state sought a lengthy period of no contact between Kempfer and his abused son, the effort was unsuccessful. And during sentencing, knowledge and acceptance of information from the civil case involving custody and visitation appeared limited.

House Bill 1395 addresses the treatment and court process issues illuminated by the Kempfer case. It serves to improve caregivers and the system. For these reasons, I ask you to support House Bill 1395.

#5
HB 1395
1-29-19
pg 1

House Judiciary Committee
House Bill 1395 Testimony - January 29, 2019

Chairman Koppelman and Members of the Committee:

I am Linda Reinicke, Program Consultant for Prevent Child Abuse North Dakota (PCAND), a non-profit dedicated to promoting services and resources that prevent all types of child abuse and neglect. I am here to voice support of House Bill 1395.

As you heard from previous testimony, children need protection from the offender 1) to prevent future victimization and trauma and 2) to help children move from surviving to thriving. Children must know the adults in their orbit will keep them physically safe and emotionally secure and defend them from harm when they are threatened or attacked.

That said, the highest priority in protecting the child victim should be assessing the offender's capacity to be in the child's life and, based on assessments, implementing strategies to prevent future abuse and neglect. The assessments may indicate removing or limiting the offender's involvement in the child's life, or the assessments may chart a course of treatment to help the offender replace destructive parenting patterns with healthier parent-child relationships.

Mandated assessments will guide treatment plans and help our system find resources, support and coping strategies for the offending parent. Some offenders must be restricted from accessing the victim, but offenders remaining in a relationship with the child must receive treatment to reduce risk and increase safety. It will help prevent future abuse and neglect and trauma to the child and will help limit generational abuse and neglect.

Again, Prevent Child Abuse ND fully support HB 1395.

Linda Reinicke

lindar@pcand.org

226-2510

Good afternoon Madam Chair and members of the Senate Judiciary Committee.

Thank you for your time and service.

My name is Austen Schauer, a representative from West Fargo District 13 and I'm here to ask for your support of **House Bill 1395**.

This bill seeks to **require evaluations** for individuals **convicted** of child abuse.

This proposed legislation comes on the heels of a tragic story of child abuse in West Fargo.

On September 29, 2017, a West Fargo mom noticed her **two-month-old** baby was not himself. She took him to the clinic where he was diagnosed as "**failure to thrive**."

Two months later, the mom took the baby back to the clinic after noticing bruises on his face. The diagnosis changed. Doctors said the baby had been **physically abused** and authorities were called.

Four days later, the father **confessed** to the crime admitting he hit the baby twice in the face and breaking his arm and several ribs. He pleaded guilty to a **Class B Felony** and was sent to the Cass County Jail for 12 days.

The baby's' mental health professional and pediatrician had sent letters to the judge asking that the father **not be allowed** to see the child for **five years** due to the trauma from the abuse.

The judge said no and gave the father **immediate** supervised visitation and later this year **un-supervised** visitation.

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That decision was made **without** a court-ordered evaluation, treatment or rehabilitation for the perpetrator.

Madam Chair and committee members, **House Bill 1395**, (page 2 lines 1-4), makes it mandatory for any person who pleads guilty or is convicted of child abuse (under section 14-09-22) would be ordered to complete a **parental capacity** evaluation, **mental health** evaluation and **anger management** assessment, and **complete** all treatment recommended.

There was no opposition to **HB 1395** on the House side.

We now seek your full support.

Thank you for listening and I am open to your questions.

Chairman Larson and Members of the Judiciary Committee-

My name is Amy Kempfer. I want to start by saying how much I appreciate your time and attention today. I can only imagine how long your days start to become listening to testimony on bills that you may or may not be passionate about. The good news is, I am about to talk to you about an issue that seems to truly be non-partisan, and also one that effects every single one of you, as well as every one of your constituents. The bad news is, it is a gruesome topic. I am going to try and get through this testimony without tears, but please forgive me in advance if that is not possible. I will pass around written copies of what I will be saying, some photos, some additional informative documents, and some of the letters that people forwarded to me after sending them to other representatives.

The first photo that you will see is a picture of my son, the victim identified by Representative Schauer, and his proud big brother. My son was born on 08/05/17 at 41 weeks at 8lbs 11oz, the 87th percentile, and as healthy as can be, and a good baby. Over the next month, my son's demeanor started to change, and he started to become very "colicky" and his weight started to decline rapidly as he was refusing to eat. He was at one point down to the 3%. He was officially diagnosed with failure to thrive and "silent reflux". The next month of my life I spent dedicated to figuring out how I could get my son to gain weight.

My son received a full exam from top to bottom every week from the best physician in town. We would recount ounces consumed, would analyze his progress together, and would make a plan for the next week. I lived in constant anxiety of how many ounces my son had consumed. My legs and back would ache so deep it felt in my bones from the constant gentle bouncing needed to soothe Brooks. I wish I had a recording to play you of his cries. They were more like shrieks. It was so clear he was in pain, but I could just never figure out why or what to do for him. I would sob with him sometimes, pleading with God to help me help my son. Little did I know, my two-month old son had multiple broken ribs. I stayed up to dream feed him bottles to maximize the ounces he would take in, setting alarms for every two hours to feed him more. During this time, we had to postpone daycare because of the concern that my son would get sick and loose even more weight. We also couldn't vaccinate him.

I went out of town for a work conference the weekend of November 10th. My sons father, and husband at the time, assured me everything would be fine and that I would get lots of photos and updates. I set up people to check in and help every day, just in case. When I came home, my baby was sleeping soundly and his father reported that they had a great weekend. What I awoke to was a horror no parent should have to be subject to, my baby had two back and blue eyes. Because I am a trained physician myself, an instantaneous sinking feeling set in along with a list of differentials: neuroblastoma, clotting issue, trauma. My sons father of course acted shocked, and assured me he absolutely could not think of anything that would cause this. We rushed our baby to the doctor, and as you've heard me describe already, this was a place all too familiar to Brooks and I. Our pediatrician admitted for further observation. I can vividly see, and replay often, the reaction in my ex-husbands eyes as we drove to the hospital. I must say, the ease in which he funneled his fear of being discovered into a façade of anxiety over the well-being of his son, astounds me to this day.

The next photos you will see are ones of my son the day we were admitted. Do you see how little he is? Look at how lifeless his eyes are behind those bruises.

Tuesday morning, November 14th, I was hit with news that literally took my breath away and knocked me on to the hospital floor as I shrieked in agony. My son had five broken bones in addition to his facial bruising, and someone had done this to him. The fractures were in multiple stages of healing, meaning, they were done on different days. Some of the fractures were a month old, and there were 2-3 dates of fractures. Many people wonder how we could miss multiple broken bones over the course of a month. You see, infant broken bones don't always bruise. They don't have enough soft tissue to cause a reaction. I was told there would be an officer and social worker by at some point, and that an investigation had been opened. The only other person that had been alone with my son the weekend I was gone was my mother-in-law. My ex-husband continued to deny harming his infant, and initially blamed his mother.

On Friday November 17th, the detective and social worker we had been working with entered our hospital room and asked everyone else to leave. They proceeded to inform me that my son's injuries were in fact non-accidental trauma, aka child abuse. Because of the severity and lack of a responsible party, my son would not be going home with us. It was at this time that my ex-husband made a statement to police that he had caused all of the damage. After five days in the hospital, \$31,000 in medical care and testing, numerous imaging studies, laboratory tests, and physician consults, I was allowed to go home with my son. My ex-husband walked freely out of the police station that day, and was never placed under arrest. He was moved out of my home that evening, and in the blink of an eye, I became solely financially responsible for our mortgage, and all of Brooks medical bills and care.

I retained a very competent divorce attorney. We then filed for a domestic violence restraining order for Brooks, the victim in this case, as well as my other son and myself. **It was denied.** I also vividly remember the astonished look on my attorneys face when we lost that hearing.

HB1395 asks that you make a parental capacity evaluation, a mental health evaluation mandatory. These are fairly standard requests from county social serves departments in these situations. Unfortunately, they don't have the teeth to enforce them. Not to mention, many parents don't follow through with recommendations as they let their children be absorbed by the system. These abusers then go on to interact with other children. Thus, the rehabilitative component of this process is missed. This is absolutely imperative, and I do believe will save lives. This will also help support our county social services departments enforce their recommendations. In my case, because I was a safe parent, social services didn't do anything to help me protect my child. They told me it was an issue for civil court to work out. In civil court, requesting these items would likely have fallen under my financial responsibility. I spent about \$50,000 in civil court attempting to protect my child. This is unacceptable. The overwhelming majority of victims wouldn't have the resources to do this. My ex-husband testified under oath at two trials that he had no idea why he abused his son, yet continued to state multiple times that he didn't feel he needed any type of evaluation. Can you imagine? Beating a two month old over the course of a month and not thinking you need to be evaluated?

Many well-meaning individuals have said things like “well, at least he won’t remember what happened” and “at least he won’t have any permanent damage”. While my son’s broken bones and bruises have healed, it will be years before we know the full breadth of these injuries on his spirit. The long-term impact of child abuse is substantial and complex. Child maltreatment causes stress that can disrupt early brain development. Stress during critical periods of childhood brain development can impair, often permanently, the activity of major neuroregulatory systems, with profound and lasting neurobehavioral consequences. This in turn affects healthy and quality life throughout the lifespan. According to the CDC, children that have experienced trauma are at risk for improper brain development, impaired cognitive and socio-emotional skills, lower language development, high risk for heart, lung and liver diseases, obesity, cancer, high blood pressure, and high cholesterol. Child abuse victims are at increased risk for anxiety, smoking, alcoholism, and drug abuse. The stress of chronic abuse may cause a “hyperarousal” response in certain areas of the brain, which may result in hyperactivity and sleep disturbances. In one long-term study, as many as 80% of young adults who had been abused met the diagnostic criteria for at least one psychiatric disorder at age 21. These young adults exhibited many problems, including depression, anxiety, eating disorders, and suicide attempts. A National Institute of Justice study indicated that being abused or neglected as a child increased the likelihood of arrest as a juvenile by 59%. Abuse and neglect also increased the likelihood of adult criminal behavior by 28% and violent crime by 30%. Child abuse and neglect can have a negative effect on the ability of both men and women to establish and maintain healthy intimate relationships in adulthood.

This crime has affected my life, my children’s lives, my family and friends, my coworkers, my patients, and strangers in our community in more ways than you can ever imagine. It created a ripple of effects that tore through our lives like a hurricane without warning. This crime robbed me of a cherished time in a parent’s life- the newborn stage of their child. Instead of being able to enjoy the bliss of a baby, I have spent my son’s early years in doctor’s offices, the hospital, and the courtroom fighting to do everything I can to help him thrive. I never got a snuggly baby. To this day, my son doesn’t like to be cuddled. I can’t rock him. I can’t hug him. Putting him in a car seat triggers a trauma response, and he screams and fights violently every single time. Getting him dressed is very distressing most days. My baby didn’t get a peaceful newborn stage- he got pain and doctor visits. Five broken bones. Two black and blue eyes. Months of doctor visits. My baby didn’t deserve this. No one deserves this. But let me stress this to each and every one of you- it could happen to you and someone you love too. No one is immune.

Please stand together with the ND House of Representatives who supported this bill 81-11-2. Please vote yes, 6-0, and help ensure there is a rehabilitative component for crimes against children.

Thank you for your time.

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HB 1395
3/11/19



#2
HB 1395
3/11/19



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HB 1395
3.11.19

January 25, 2019

Re: Brook's Law (HR1395 and HR 1396)

To Whom It May Concern:

I am writing today in support of HR1395 and HR1396, otherwise known as Brooks' Law. The reason why this is important to me is because I am the mother of two child abuse victims, both at the hand of their father.

To give you some background, my daughter was physically abused at two months old. Her biological father put cayenne pepper in her bottle and eyes, hit her, moved her from hot to cold bath water, held her nose until she turned blue and snapped a towel into her face causing black eyes. At the hospital, she underwent Xrays, an MRI, EEG, and wore a cast for two months. Her brother, my son, had to watch his father inflict these injuries upon his sister. Both of my children will carry internal scars from this forever, and the courts don't consider my son a victim because he wasn't "physically harmed." Although he was not physically harmed, he carries the emotional trauma of the situation, and is continuing to work to heal through therapy.

I had a firsthand seat to how broken the court system, and the injustice the children of abuser's face. My ex-husband, after sitting in jail for 14 months, was finally sentenced because he took a plea deal. Without that plea, he more than likely would have only received probation, I'm told, as he had no prior record. He received 30 months of jail time, with credit for time served. This left him with roughly 6 months in prison, which in my opinion, isn't nearly long enough for the horrible things he did to his children. I fail to understand why it matters if there is a prior record or not in cases such as this. I was told I saved my little girl's life by bringing her into the hospital that night, and the doctors were shocked she has no lasting physical injuries. Minimum sentencing laws are so important in these cases; I've seen that without them there is a very real possibility of the abusers not serving any time for what they do to their victims.

I would also agree with the stipulations in the bills requiring mental evaluations, including capacity, health, and anger management. It is my belief that if a person is capable of hurting a child, there is something "off" and that person needs help. If he or she is to ever be around any children or venerable parties again, getting the help he/she needs is the only way to begin to ensure the safety of those children. This evaluation was done on my ex-husband, and in his case, they found him capable to stand trial, and having antisocial personality disorder. Because of this, I was able to secure a no contact order; however, so many victims are required to see the abusers through court ordered visitation as there's no "legal reason" to separate them. That's simply not true. **No victim should be required by the state to see their abuser, no matter how young or old they were when the abuse occurred.** For this same reason, I would agree with the point in the bill stating the offender cannot serve a sentence with electronic home monitoring. If the crime was committed in the home, why should he/she be able to serve the sentence out there? He should be taken out of the home and face justice, not wear an ankle monitor while sitting on their couch.

I write this from an outside perspective. While I live in the Fargo/Moorhead area, I reside on the Moorhead side. In speaking with other parents of abuse victims, I have realized that while Minnesota's

state laws also fall short, I was very fortunate to be on that side of the river in this situation. North Dakota current laws made it impossible to get protection orders, or to keep the abuse victims away from the abuser. With no anger management requirements, in home sentencing, and mandatory visitation, the kids in North Dakota are continued to be subjected to their abusers, all in the name of "parenting." These kids are terrified, and their real parent, the one that protected the kids, must take their babies to face their abusers over and over. That's completely unfair to the parent and damaging to the children. These bills, and the state of North Dakota, has a chance to turn the tide and really set laws into place to protect abuse victims.

North Dakota is a good place to live and work, and like much of the Midwest, a great place to raise children. Family is a priority here, and children should be safe in their families. They shouldn't have to live with seeing their abusers because the courts say the parent should have visitation. Not in these situations, and not without required classes and evaluations on the part of the abuser.

As I stated above, as the mother of abuse victims, these proposed laws make all the sense in the world and are much more lenient and reasonable than the abusers deserve. Do the right thing and protect the children in North Dakota. Thank you for your time.

Sincerely,

Belinda Bailor

Chairman Larson and Members of the Judiciary Committee

My name is Kim Radermacher.

Thank you for your time this morning and the opportunity to speak with you regarding HB1395 and 1396. These bills, Nick Named "Brooks Law" are important to me because I am a very close family friend with Amy and Brooks Kempfer. Amy's oldest son calls me Gamma Kim as I am sure Brooks will once he is verbal. The subject of these bills is a difficult one and involves our States voiceless citizens. The topic of child abuse is not something we like to sit around and casually discuss. The details are heart wrenching and they disturb the picture in our mind of how children are supposed to be treated. I won't bombard you with statistics and studies, but rather I will share with you a story of survival.

In the mid 70's, between the ages of 8-10, I suffered unspeakable childhood trauma at the hands of a distant relative. My brain repressed this trauma until I was in my mid twenties. I am now 50 years old and have spent the last 25 years trying to figure out how to function as a survivor. You may be wondering what this even has to do with these two bills that seek to define mandatory sentencing and mental health of abusers. You've heard Amy's testimony about the horrific physical abuse Brooks suffered as a tiny infant. Over the passed 15 months I have shared this story countless times and far too often, people will summarize the account by saying "Thank God he'll never remember." Well, I didn't "remember" either until many years later. Brooks will, at some point in his life, know that he was violently injured at the hands of his father. A parent is one of the few people who should want to die in an effort to protect you, not hurt you. Not only will he

one day know he was hurt by his father, but he will know that his father spent a mere 9 days in jail as punishment. He will know that his suffering was only worth 9 days, in the eyes of our states Judicial System. While Brooks physical injuries have long since healed, his emotional and physiological trauma will last his lifetime. Brooks has been court ordered to begin the reunification process with his abuser. His abuser spent the better part of the last 15 months avoiding mental health evaluations, parental capacity exams and has even testified in court, under oath that he still isn't even sure he actually DID the abuse. When asked why it happened he nonchalantly says "I don't know, I guess I just snapped." But by all means, lets put this non-verbal, highly traumatized child in a room with his abuser who hasn't been evaluated for the threat of repeating his snapped behavior. We wouldn't take an adult abuse survivor and put them in a room with their abuser and tell them to just deal with it....Why do we expect this of an infant. These mental health evaluations and therapy should take place BEFORE the abuser is allowed to embark on potential reunification. I can assure you Brooks will have triggers of the actual events, the rest of his life. A certain smell, a certain look, a sound...any one of these things or all of them will trigger his fight or flight and put him right back in his moments of terror. The conscious mind may not remember but the subconscious mind never forgets. Over the last 25 years I have been diagnosed with depression, anxiety and PTSD. I have nightmares. I have struggled with substance abuse, risk taking behaviors, blaming myself for the abuse, bouts of anger and fear that seemingly have no explanation. I've been counseling in some capacity or another over this long time span as well. So when someone says "thank god Brooks won't remember", I nod, because the truth of the matter is just too grim.

I never accused my abuser. You didn't do those things back then. I have traveled this road of childhood trauma mostly alone. My abuser went to his grave only having to deal with his own demons. There has to be better than this. Abusers have to be held accountable for their actions, have intense therapy to figure out why they "snapped" and children need better protection in the reunification process if it is to happen at all! The ability to produce a child should not give you the RIGHT to be in that child's life if you have violently abused them. I think of all the very tiny children who have been abused or even DIED at the hands of their parents or guardians in this state in the last 15 months at it is atrocious. Many of them were repeat offenders or had just slipped through the cracks of CPS. Mandatory sentencing and mental health therapy may have made all the difference in any one or all of those cases. Children who cannot verbalize or emotionally process their surroundings deserve better protection from their abusers.

I have spent decades saying "why me, why did something so terrible have to happen to me." I now know that it was for this moment in time. This moment to be able to speak to each of you, as a childhood trauma survivor, and say HB's 1395 and 1396 are important, they matter, and our voiceless citizens of this great state deserve our help. Thank you

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3.11.19

Fwd: Bill's 1395 & 1396

Deb Olson <deb.olson26@gmail.com>

Wed 3/6/2019 1:24 PM

To: docamydc@hotmail.com <docamydc@hotmail.com>

----- Forwarded message -----

From: **Deb Olson** <deb.olson26@gmail.com>

Date: Wed, Mar 6, 2019, 10:34 AM

Subject: Bill's 1395 & 1396

To: <kkoppelman@nd.gov>

Please give these Bill's your attention and support.

You have grandchildren and I know the mother of a 3 month old child that suffered at the hands of his father with nothing more than a slap on the wrist. Please help this pass! Thank you

#3
HB 1395
3-11-19

Please Support Brooks Law

Marissa Willits <marissa.taylor1@gmail.com>

Fri 1/18/2019, 12:03 PM

To: dclemens@nd.gov <dclemens@nd.gov>; bkoppelman@nd.gov <bkoppelman@nd.gov>;
amarschall@nd.gov <amarschall@nd.gov>
Cc: Amy Kempfer <docamydc@hotmail.com>

Legislators,

I am writing to you in regards of "Brooks Law" - HR1396 and HR1395.

Child abuse affects over 1,000 children a year in North Dakota and I have seen the effects personally. I have held my friends child that had been systematically abused and felt how this trauma changed him. Rather than lean into someone offering him comfort, if his chest was too close to mine he would violently push and swing away. Several months after his abuse and before he could talk his body reacted to and remembered the effects of his abuse. It broke my heart that I, nor this child's mother, could offer Brook's comfort.

What's frustrating still, is the fact that his abuser wasn't required to take a mental health, parental capacity or anger management evaluation. He served only TWO WEEKS in jail for breaking the bones and slapping the face of a 3 month old baby. He stayed at home, in his air conditioned house, "serving his time" using Electronic Home Monitoring.

This bill would make it a requirement for abusive parents to complete parental capacity, anger management, and mental health evaluations before being granted parenting time with children they have abused as well as eliminate the option for EHM. All of which I think are VITAL to serving the best interest of the child in question.

A part of this bill asks for minimum mandatory sentences for those who harm victims under the age of 2 (2 years without permanent physical damage, 5 years with). I believe in mandatory minimum sentences, and that these are completely reasonable. These time frames not only give the abused and the caretaker time to recover from the trauma of abuse but allow for the aforementioned evaluations to be scheduled and completed well in advanced of any reunification, if granted.

The fact that Brooks was ushered back into the arms of his abuser so soon after not only the abuse, but his abusers brief stint in jail, makes me disappointed in our system.

Please support these bills as our children deserve better.
Thank you for your consideration and support of "Brooks Law."

Marissa Willits
218-791-9394

Fwd: Bills HR1395 and HR1396

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Thomas Mohagen <tmohagen50@gmail.com>

Thu 3/7/2019 1:25 PM

To: Amy Kempfer <docamydc@hotmail.com>

Here you go!

Thomas J. Mohagen
(701) 866-1233

Begin forwarded message:

From: Thomas Mohagen <tmohagen50@gmail.com>

Date: March 7, 2019 at 12:56:31 PM CST

To: kroers@nd.gov, dklarson@nd.gov, madwyer@nd.gov, jbakke@nd.gov, lluick@nd.gov, jmyrdal@nd.gov

Subject: Bills HR1395 and HR1396

I am emailing you requesting your support for bills: HR1395 and HR1396 related to child abuse, neglect and reporting.

As a father of two (2) children in the State of North Dakota this story of abuse upsets me beyond belief. Under no circumstances should a parent abuse a child in their care, let alone a child under the age of two (2) years inflicting 3 broken ribs, 2 broken/fractured arm bones and black and blue eyes over the course of several months. The story of what Ms. Kempfer and her son have had to go through the past year is heartbreaking and a complete let down of our government funded systems in the State of North Dakota. No mother and child should have to be let down by the system at every turn. A 5 month sentence for Ms. Kempfer's ex-husband with reductions for EHM and good behavior for abusing a child in his home is not acceptable punishment for the physical harm, mental stress and additional medical treatments he caused his son and ex-wife. This also doesn't touch on the mental health, ability to parent or ability of Ms. Kempfer's ex-husband to be a productive and safe member of society. There need to be steps in place for individuals to get evaluated and make sure they are safe and mentally stable. In the case of Ms. Kempfer and her son I would have liked to see her ex-husband get a 5 year minimum in a federal prison and termination of his parental rights, no individual deserves to be a father to a child they have hurt and could potentially hurt again in the future. All though this may seem like a harsh punishment, it is my belief that someone who abuses once will do it again and it is just a matter of time before that happens and we need to protect individual's that are not able to protect themselves.

This is why I support and believe the State of North Dakota needs to establish much greater consequences for individuals that abuse or neglect others in their care. As I was made aware during a conversation with a counselor the other day you can get a harsher jail sentence for abusing an animal in your care than you can for abusing a child in your care. Not to mention it is easier for me a loving, caring, supportive father who has

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always been there for his kids to loose parenting time with his kids during a divorce than it is for an abuser to lose their parenting time with the child they abused. These two items and the entire store of Ms. Kempfer and her son make me question and trust the judicial system and government funded systems in the State of North Dakota.

I also support the establishment of an electronic listing of convicted abusers with the same information listed as the registered sex offender electronic listing. I have been informed that there is currently an excel spreadsheet (electronic) listing of convicted abusers, but this list does not provide picture references, risk levels, descriptions of convicted abuse and it does not provide an individual like myself an easy way to see if anyone in their neighborhood has been convicted of abuse or neglect. Everyone in our state need the ability to search an electronic and mapped database to know if the neighbor down the street, the babysitter they hired for the night, the daycare provider their child is with 5 days a week or the home daycare their child(ren) attend does not have someone convicted of abuse or neglect working or living next door.

The last item within these bills I would like to acknowledge is a study of the judicial system between civil, criminal and juvenile courts. How do they work together to support and share information with each other when it comes to child abuse or neglect? Do all the judges within these courts know, receive training or have specialty on the effects on the mental health of a child that has been abused? Watching Ms. Kempfer and her family go through this process has shown me that these systems do not work together, do not share information and are scared to make their own independent judgement for fear of stepping on another's toes. She has had three (3) different attorneys with specialized practice area for each of her civil, criminal and juvenile court cases, but yet the judges in our system oversee multiple areas within our courts without a focus area with the exception of the juvenile court judge.

The State of North Dakota needs mandatory minimum requirements for jail time of caregivers that abuse individuals in their care and mandatory mental health evaluations, parenting capacity examinations, counseling and therapeutic reunification requirements based on medical professionals observations and recommendations. The State of North Dakota also needs an electronic database with more detailed and mapped information, along with a study of our judicial system and how abuse and neglect are handled within each court. The State of North Dakota needs to understand if there is support between the courts and if the counties of North Dakota need a specialized court with appointed, trained and educated judges.

I greatly appreciate you taking the time to consider my email and I hope I can count on your support of these bills.

Thank you from a life long North Dakota resident.

Thomas J. Mohagen
(701) 866-1233

3
HB 1395
3.11.19

In Regards to HB1395 and HB1396

Kayla Goebel <kayla.goebel@gmail.com>

Thu 3/7/2019 1:23 PM

To: Amy Dusek <docamydc@hotmail.com>

Protecting our children, protecting our future, is one of the most important tasks we as adults have been given. HB1395 and HB1396 should be an easy 'yes' to ensure children have a chance at a bright future, and those who harm children are given some sort of consequence to their actions.

I have learned over the last year and a half that the rights of those who abuse children are taken more seriously than for the defenseless children themselves. This goes against all natural instinct to protect and raise children in the safest ways possible. Please take a moment to consider the positive effects these bills could have on families, on children, and working towards rehabilitation for the children and their families.

First, mandatory minimums are an important addition to have for perpetrators. We need to be serious about showing perpetrators that their actions are unacceptable, and mandatory minimums are one way we can show that.

Second, I would support the notion of not allowing Electronic Home Monitoring to count for time in abuse situations. If you commit a crime in your home, staying at home should not be rewarded.

Third, Class B Felony Child Abuse should be required to undergo a **mandatory** parental capacity evaluation, mental health evaluation, and anger management eval. This is **critical**. Not only does it help our social services divisions enforce these often times standard exams, it serves as the "rehabilitation" component of the sentence. Let's set children up to be around healthy humans, and set people up with tools to try and be successful parents.

Pushing these two bills forward should be an easy and resounding 'Yes!' These bills could be helpful in not only sentencing but also in having successful rehabilitation for families and most importantly, the children who are victim to the abuse.

Thank you for your time and consideration.

Kayla Goebel

Design. Photo. Illustration.

701.261.1798

kayla.goebel@gmail.com

<http://sheadesign.carbonmade.com/>

Fwd: 1395 & 1396

#3
HB 1395
3.11.19

Kristin Smillie <smillielady@hotmail.com>

Thu 3/7/2019 6:36 PM

To: Amy Kempfer <docamydc@hotmail.com>

Sent from my iPhone

Begin forwarded message:

From: Kristin Smillie <Smillielady@hotmail.com>

Date: March 7, 2019 at 3:35:18 PM MST

To: "dklarson@nd.gov" <dklarson@nd.gov>, "madwyer@nd.gov" <madwyer@nd.gov>, "jbakke@nd.gov" <jbakke@nd.gov>, "lluick@nd.gov" <lluick@nd.gov>, "jmyrdal@nd.gov" <jmyrdal@nd.gov>, "aosland@nd.gov" <aosland@nd.gov>, "dgschaible@nd.gov" <dgschaible@nd.gov>, "rwardner@nd.gov" <rwardner@nd.gov>

Subject: 1395 & 1396

To Whom it May Concern:

I am contacting you to request your support for HR1395 and HR1396. As a child protection worker in the state of North Dakota, there are so many reasons that I not only support this bill, but find it completely necessary.

I strongly believe in the work that I do, and that it is our job as a society to protect children. Our legal system, in the state of North Dakota, completely fails the victims of child abuse – especially in severe cases. The fact that there are not mandatory minimums is appalling. You need to consider that these children are being hurt, in the one place that they are supposed to feel safe, by the people that are supposed to protect them. If that isn't the worst kind of crime, I don't know what is.

I am asking, begging really, that you vote in support of this legislation. Mandatory minimum sentencing is not an outrageous request for these situations. Often, people convicted of child abuse serve minimal jail time. Take Aaron Kempfer (West Fargo), for example, who admitted to assaulting his three month old child, on multiple occasions, over the course of an entire month. He served 12 days in jail for inflicting trauma on a helpless baby. Thankfully, Brooks will be ok as far as physical injuries go (he suffered a fractured arm, fractured ribs, and two bruised eyes), however the trauma has likely impacted him in ways that we have yet to see. Additionally, how is it acceptable that this person, who committed the crime in his home, was punished with electronic home monitoring. He was able to enjoy all the things that he regularly loves – his bed, having friends over, football games and control of the television remote – while the mother and the child did the hard work of recovery. He took no part in that, but yet was given visitation by a judge that likely isn't trauma informed on a minimal

supervision plan at best. This was given despite recommendations from a mental health therapist against this, and Brook's pediatrician recommending Aaron not have any contact for 5 years. Not to mention, at no point was Aaron ordered to have his parental capacity assessed, or to have a mental health evaluation done.

The whole situation is heart breaking. How are we protecting this child, who was traumatized and abused at the hands of his FATHER. I wish I could say this is rare, but it is not.

Lastly, I would encourage you to support these bills because so often, in the work I do, I see people go without any repercussions legally for hurting children. These kids are scared, and often made to suffer additional trauma due to the lack of punishment their abusers receive. A slap on the wrist is not an acceptable answer. If we want to actually protect children, abusers need to have consequences that fit the crime. Looking at the sentences often handed down, like the example above, that is not happening. When there are no consequences, the behavior is more likely to be repeated.

You have the opportunity to help change the face of child welfare in the state of North Dakota, by voting in support of these measures which show abusers that we don't tolerate that behavior here. That we love our children, and we are going to protect them. That they aren't going to hurt a child, be convicted, and see no repercussions. Victims and their families should be protected by the system, not suffer more because of it.

Please, do the right thing, and support these bills.

Sincerely,

Kristin Smillie

#3
HB 1395
3.11.19

Fwd: Bills HB1395 & HB1396

3
HB 1395
3.11.19

Vigdis Gjerde <vigdisg12@gmail.com>

Wed 3/6/2019 7:50 PM

To: docamydc@hotmail.com <docamydc@hotmail.com>

Amy,

Here you go :)

You are amazing, good work!!!!

Vigdis

----- Forwarded message -----

From: **Vigdis Gjerde** <vigdisg12@gmail.com>

Date: Wed, Mar 6, 2019 at 7:48 PM

Subject: Bills HB1395 & HB1396

To: Diane Larson <dklarson@nd.gov>, jbakke@nd.gov <jbakke@nd.gov>, jmyrdal@nd.gov <jmyrdal@nd.gov>, lluick@nd.gov <lluick@nd.gov>, madwyer@nd.gov <madwyer@nd.gov>

Dear, Senators.

First I want to Thank you for all you do!

We need your help, Please consider supporting bills HB1395 and HB1396, it is time we start standing up for our children and protecting them as well as getting the appropriate sentence for child abusers.

Appreciate any support,

Vigdis Gjerde
West Fargo, ND

Fwd: Support of Senate HB 1395 and 1396

Karmen Sandberg <karmeylavelle@icloud.com>

Wed 3/6/2019 9:38 AM

To: docamydc@hotmail.com <docamydc@hotmail.com>

#3
HB 1395
3.11.19

Karmen Sandberg

Begin forwarded message:

From: Karmen Sandberg <karmeylavelle@icloud.com>

Date: March 6, 2019 at 9:36:57 AM CST

To: dklarson@nd.gov

Subject: Support of Senate HB 1395 and 1396

Good morning-

I'm contacting you today to tell you of my support of HB 1395 and 1396. It is our responsibility to stand up for the littlest ones in our state..to protect the ones incapable of protecting themselves...those who harm our children need to be held responsible for their actions and held accountable...not just a slap on the wrists...please do the right thing and vote yes!

Thank you!

Karmen Sandberg

Fw: HB 1395 & 1396

wanjanwil@aol.com

Wed 3/6/2019 9:06 AM

To: docamydc@hotmail.com <docamydc@hotmail.com>

#3
HB 1395
3.11.19

Sent from my Verizon LG Smartphone

----- Original message-----

From: wanjanwil@aol.com

Date: Wed, Mar 6, 2019 8:51 AM

To: galee@nd.gov;

Cc:

Subject: HB 1395 & 1396

A little boy I know who at 3 months old was being treated for failure to thrive when it turned out his daddy was abusing him.

Aaron Kempfer served his time with less than 2 weeks in jail and home monitoring. There wasn't even a requirement to have a mental health or parental evaluation to determine if he should even be allowed to have contact with his son without re-abusing.

HB 1395 and 1396 (Brook's Law) overwhelmingly passed the House and now we are asking for your help in passing these bills through the Senate. Please vote yes to these two bills.

Thank you.

Wanda J Wilcox
422 3rd Avenue S
Casselton ND 58012

#3
HB 1395
3.11.19

HB1395 and HB1396

Holly Meyer <Holly.Meyer@noridian.com>

Wed 3/6/2019 10:42 AM

To: dklarson@nd.gov <dklarson@nd.gov>; madwyer@nd.gov <madwyer@nd.gov>;
jbakke@nd.gov <jbakke@nd.gov>; lluick@nd.gov <lluick@nd.gov>; jmyrdal@nd.gov <jmyrdal@nd.gov>;
aosland@nd.gov <aosland@nd.gov>

Members of the senate judiciary committee,

I have been a North Dakota resident my whole life. My father is a deputy sheriff in the state, sworn to protect citizens in his jurisdiction. One of the reasons I choose to live in North Dakota is because it is a safe place to raise my family. However, there is an issue in our state today that fails our children and compromises the safety of children throughout the state. As you prepare to vote on HB1395 and HB1396, please take steps to increase the safety of North Dakota children.

You have an opportunity to protect North Dakota children, and assist law enforcement throughout the state in deterring abusers ... hopefully deterring a first case of abuse, but certainly minimizing the chance of repeat offenders. Children that are victims of repeat offenders have truly been failed not only by the abuser, but also by the rest of us in this state that have an opportunity to speak up, enforce laws, or make laws to help protect these children. Adults who abuse children undermine the wellbeing not only of that child, but also creates trauma for the family of the abused child, and often extends a cycle of abuse that further undermines our youth in subsequent generations.

I believe mandatory minimums for offenders are necessary to 1) deter abuse, 2) prevent repeat offenders, and 3) create accountability for the abuser to accept consequences and seek rehabilitation. Please support these bills to protect the youth of North Dakota for generations to come.

Holly Meyer, PMP

701-371-0486 (mobile)

hmarbonne@yahoo.com

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#3
HB 1395
3-11-19

Fwd: HB 1395 & HB 1396

Breanna Gronaas <breanna.l.olson@gmail.com>

Wed 3/6/2019 11:45 AM

To: docamydc@hotmail.com <docamydc@hotmail.com>

----- Forwarded message -----

From: **Breanna Gronaas** <breanna.l.olson@gmail.com>

Date: Wed, Mar 6, 2019, 11:44 AM

Subject: HB 1395 & HB 1396

To: <jlee@nd.gov>, <madwyer@nd.gov>, <jbakke@nd.gov>, <lluick@nd.gov>, <jmyrdal@nd.gov>, <aosland@nd.gov>

Hello,

I am writing this email to make change and help be a voice for innocent children, beaten at the hands of adults. Personally, the case involving Amy Kempfer and her young son, Brooks. I'm sure you know her case, but I'll give you a short refresher.

Over the course of Brooks short life, he suffered 5 broken bones, two black and blue eyes, and almost starved due to his failure to thrive. His mother was doing everything she could to figure out what was going on with her son and why he wasn't eating. After being out of town for a work event, she came home to an infant with black and blue eyes. She brought him to the hospital where they do tests and x rays and discover his broken bones, some of which were a month old. After much finger pointing and denying, and at one point during the week blaming his mother, Aaron fessed up to beating his own child. Fast forward MANY months later, a divorce, many court hearings, and over \$50,000 out of Amy's pocket trying to protect her son, Aaron basically got a slap on the wrist. He was given unsupervised visitation after a year. He was not required to complete any mental health evaluations. He beat his own child, and was given credit for voluntary electronic home monitoring with the luxuries of his home and given credit for good behavior. He served less than two weeks in jail. This is an atrocity. I've learned that Amy's case is not unique, and this happens across our state.

I often hear "well at least he was young enough, he wont remember." LIES! Brooks is now 18 months and still cannot come to my house when my husband is home, because my husband has a beard (as did Aaron). THAT is lifelong trauma.

I could go on and on, but if you cannot tell, this case is very dear to my heart. I personally know all involved. After many many talks with Amy about our judiciary system and lack of punishments for abusers like this; I lose sleep and wake up in sweats with nightmares. As a mother, I cannot imagine what Amy AND Brooks continually go through. I thank God every day that Amy is diligent enough to see some good in this and fight SO hard for change. For future children, who, no matter what the laws are, will still be harmed by adults. But what can happen, is helping PREVENT it from CONTINUING to happen after their pittly sentence.

Making mandatory minimums and evaluations will help prevent it from continuing to happen. It will help those abused, leave their abuser and seek help. It will help in-home daycares from continuing to be in business. It will allow space and time for those harmed by trauma to heal, and it will help ensure rehabilitation for those that abuse the most vulnerable of our population. I know we would all like to believe that judges do the right things, but clearly they do not. Our system is simply not trauma informed, and the victims are being punished because of it. Our state needs to catch up physical abuse laws to those of sexual abuse.

I cannot express enough, that unless this has happened to you, or know someone PERSONALLY that it has to, how important bill HB 1395 and HB 1396 are.

If I failed to paint a VERY clear picture of this case, and what Amy has been through, I BEG you to call her and ask her to explain the last nearly 2 years of her life. And it's not over yet, actually, it never will be "over" for Amy and Brooks. Amy knew this man for 15 years before they dated, knew him well enough to marry him and trust him to raise a child together. People are manipulative, and I cannot fathom how he has manipulated the court's/judges into thinking he is a "good guy" and doesn't think he needs mental evaluations. But yet, he still cannot explain why he harmed his innocent child.

Every case is different, every person is different, but what the common denominator is, is innocent children. They are our future, PLEASE help us protect them. Help us make the world a better place. PLEASE help us protect the innocent and voiceless.

Thank you for taking the time to read this lengthy email. I truly appreciate it and hope I can help make a difference for the protection of our youth.

Sincerely,
Breanna Gronnas
West Fargo, ND

#3
HB 1396
3.11.19

#3
HB 1395
3.11.19

Fwd: Constituent View - Vote Yea on HB1395

Becca Sandell <becca.sandell@gmail.com>

Wed 3/6/2019 11:20 AM

To: Amy Kempfer <docamydc@hotmail.com>

I thought there was one where he said he supported it but I am not finding it right now. If I find it, I will forward it to you but this is what I have at the moment.

Becca

----- Forwarded message -----

From: <mpiepkorn@nd.gov>

Date: Wed, Feb 13, 2019, 3:02 PM

Subject: RE: Constituent View - Vote Yea on HB1395

To: <Becca.sandell@gmail.com>

Thank you for writing to share your opinion. I will look for the bill when it hits the Senate floor.

-----Original Message-----

From: Sandell, Rebecca Lynn

To: Piepkorn, Merrill

Sent: 2019-01-26 21:21:38

Subject: Constituent View - Vote Yea on HB1395

I want to express my support for HB1395 to be passed. It is imperative to protect our children from abuse and promote healing when it does happen. I believe the proposed bill addresses the root causes of abuse and has the potential to repair families.

Mr. Simons,

I am currently not in your district but I am aware that you are on the committee that will hear HR 1395 on Tuesday, January 29th, 2019. I plan on being in attendance at that committee hearing.

I am writing to you to express my support of HR 1395, otherwise known as Brooks Law. I am currently working in the Child Welfare field and work with parents who have been had a services required decision of child abuse or neglect. I also have worked with parents who have been charged with child abuse. HR 1395 would require parents to complete a parent capacity evaluation, mental health evaluation, and anger management assessment, and to participate in all treatment recommendations. The bill would also ask that a study be completed on North Dakota's judicial process for handling child abuse and neglect and domestic violence cases to ensure all entities are working together. I believe strongly that these services and this assessment of our judiciary system's handling of these cases needs to be reviewed.

I understand the impact of trauma, neglect, and abuse on children. I see it everyday. North Dakota has the second highest suicide rate in the country. We have behavioral health issues with students in schools, where teachers and administration are not prepared to deal with aggressive, verbal, and suicidal children. I have been called to the school or community when this instances have happened, in almost every case that child has experienced neglect, abuse, and/or trauma. We learn how to have relationships, solve problems, and cope with situations mainly from our parents. If we see that our parents are physically fighting or using substances to cope we will do the same. If children see their parents hit or neglect them as a way to solve problems in the family, then this is how these children will learn to parent. We need to stop the cycle. Trans generational trauma, neglect, and abuse is common, it is overwhelming, and its exhausting our systems and resources. We need to intervene when children are young and their parent first make that horrible mistake so that it can improve outcomes and safety for that child.

Working in the child welfare system it is hard for children to be removed from their parents, even ones that abuse or neglect them, and these children deserve the opportunity to be reunited with their family, but this can not be done safely without evidence based interventions and assessments. We need to be able to identify the problem and know what kind of support that parent needs to be around their child safely. Parental Capacity evaluations help identify strengths that the parent has that can be build up and they also identify areas that need improvement such as knowledge of child development, parents coping skills and mental illness that the parent might be struggling with. This assessment is helpful to determine what interventions need to be in place to improve safety in the home. Social services can have these services required but it is difficult to have the parents do these services without them being court ordered. If the legal system and the child welfare system work together to ensure that these services are being completed it will improve outcomes for children. At this time I feel our judicial system, specifically our judges, need more training on the impact of trauma on children and if the parent is held accountable and in essence "taught" to deal with their anger, mental health, and learn coping skills then it will only improve outcomes for those children but also future generations.

I know this is a long email. I am very passionate about making sure children are safe, healthy, and cared for and sometimes it takes a whole community and necessary laws to hold people accountable. If you have questions or would like additional information I can be reached at 701-590-5227 or through email. Thank you for your time.

Leah Honeyman
Scranton, ND

#3
HB 1395
3/11/19

North Dakota 66th Legislative Assembly
SENATE JUDICIARY COMMITTEE
Hon. Senator Diane Larson, Chair
Hearing: March 11, 2019

Re: Testimony in Support of House Bill 1395

Chairwoman Larson and members of the Judiciary Committee:

My name is Leslie Ann Brunette, Authentic Voice and Prevent Child Abuse North Dakota Lobbyist. **I support House Bill 1395.**

31 years ago - March 1988 - my father was arrested, charged w/multiple counts of child physical and sexual abuse and sentenced to 10 years in North Dakota State Penitentiary. The North Dakota Department of **Corrections and Rehabilitation** played a critical role in our family's journey to freedom from abuse! During the 6 years he served, - 4 years for good behavior, he was mandated to attend therapy and rehabilitative sessions.

Had he NOT been mandated to ultimately learn what he did not know; i.e. alternatives to abusive behaviors - tools and strategies for reducing and overcoming anger, physical, verbal and sexual abuse tendencies, the abuse and the generational cycle of abuse would have continued.

I share and highlight a small snippet of my personal story to ensure you all are aware of the critical and **empowering** role you play in creating the same opportunity for freedom from abuse for other families and children in our thriving state!

HB1395 asks that you make a parental capacity evaluation, a mental health evaluation mandatory. We don't know what we don't know. This bill is the gateway to the vital treatment and mentoring needed for the abusers convicted of child abuse!

DO PASS will translate into hundreds, possibly thousands of North Dakota children being **cared for** instead of being abused by adults equipped with the life-giving skills, tools and strategies learned post the parental capacity and mental health evaluations!

Please stand together with the ND House of Representatives who supported this bill:
81-11-2. **Please Vote: DO PASS on HB1395.**

Respectfully,

Leslie Ann Brunette
Authentic Voice, Prevent Child Abuse ND Lobbyist #730
1505 9th St NW West Fargo, ND 58078

North Dakota 66th Legislative Assembly
SENATE JUDICIARY COMMITTEE
Hon. Senator Diane Larson, Chair
Hearing on March 11, 2019

Re: Testimony in Support of House Bill 1395

Chairwoman Larson and members of the Committee, I am Reid Brady, Assistant Cass County State's Attorney. I support House Bill 1395.

Improving the caregiving skills of abusers is the purpose of House Bill 1395. Many child abusers either maintain a relationship with their victims or seek to reunify with their victims. Sometimes abusers are ordered to complete a diagnostic assessment or to comply with recommendations from social services. But such orders are not required and are not always issued. Nor are they targeted to the special dynamics of child abuse and treatment needs.

House Bill 1395 would remedy that loophole by requiring a parental capacity evaluation, mental health evaluation, and anger management assessment and completion of recommended treatment for all persons who plead guilty or are convicted of child abuse. These requirements would help identify the specific needs of abusers and encourage them to seek appropriate treatment to address those needs.

The Aaron Kempfer case highlights how helpful this bill would be. I recently prosecuted Aaron Kempfer for abusing his infant son. Kempfer inflicted serious bodily injuries upon his son and abused his son on more than one occasion. Besides the physical injuries, significant potential existed that his son would suffer long-lasting psychological issues if Kempfer failed to address his caregiving issues and reunited with his son. No part of the sentence imposed upon Kempfer required specialized evaluations or treatment to improve caregiving skills. And while the state sought a lengthy period of no contact between Kempfer and his abused son, the effort was unsuccessful.

House Bill 1395 addresses the treatment issues illuminated by the Kempfer case. It serves to improve abusers' caregiving skills and accordingly protect our children. I ask you to support House Bill 1395.

19.0789.02001
Title.

Prepared by the Legislative Council staff for
Senator Dwyer

March 11, 2019

#1
HB 1395
3.12.19

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1395

Page 2, line 4, replace "all treatment recommended as a result of those evaluations" with
"treatment recommendations as ordered by the court as a condition of probation"

Renumber accordingly