

2021 HOUSE HUMAN SERVICES

HB 1317

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1317
1/20/2021

Relating to providing financial assistance for costs associated with a pregnancy that results in an adoption of a newborn

Chairman Weisz opened the hearing at 2:34 p.m

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Financial assistance program development
- Labor & delivery medical expenses payment

Patricia Limpin, Bismarck (2:36) testified in favor and submitted testimony #1909.

Rev. Grace Murray, Pastor and Teacher People's United Church of Christ (2:40) testified in opposition and submitted testimony #1821.

Elizabeth Dill, Fargo (2:49) testified in opposition and submitted testimony #1822.

Brandi Hardy (2:55) testified in opposition as bill currently written and neutral if corrections made to the bill and submitted testimony #1904.

Anna Prafcke, Fargo (2:59) testified in opposition and submitted testimony #1938.

Rep. Bill Devlin (3:02) made a motion for a **Do Not Pass**.

Rep. Matthew Ruby (3:02) seconded the motion.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y
Representative Greg Westlind	Y

Motion carried 14-0-0

Bill Carrier: Rep. Matthew Ruby

Additional written testimony: #1581, #1797, #1816, #1862, #1936

Chairman Weisz adjourned at 3:02 p.m.

Tamara Krause, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1317: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1317 was placed on the Eleventh order on the calendar.

HB 1317

House Human Services Committee

Testimony of Patricia Limpin in support

January 20, 2021

Mr. Chairman and Members of the Committee:

I have come today to offer testimony in support of HB 1317 to provide financial assistance for costs associated with a pregnancy that results in the adoption of a newborn.

I am a Social Work student in my junior year, and after graduation and passing licensure, I aspire to work in adoption, foster care services, or crisis pregnancy. I have always believed in the dignity and sanctity of human life from conception to natural death. 3 months ago, I delivered a baby boy of my own. However, several months before that, I was a 20 year old college student, unwed, unexpectedly pregnant, and afraid of what would happen to me and my baby. If there was only one thing I was certain of at that point, it was that I could not terminate my pregnancy with an abortion - the life of an innocent child is too precious to end because of my own fear. From there, I had to think of what options I had to give my baby a life where he would be safe and where he would be loved. If I were to keep my pregnancy a secret, I wondered if my medical insurance would cover my labor and delivery or if I would have to deliver at home on my own. I worried about home births where babies were breech or had other complications causing the baby or mother to die for lack of proper medical attention. I have been fortunate enough to have the support and assistance of my family, fiancé, and friends in my pregnancy and in raising my son, but I know that there are other women who are without support and in worse circumstances.

With the passing of this bill, women in crisis pregnancy can know that the life that they carried within them can come into the world safely and will have a family. There will be a relief for women as they carry out the entirety of their pregnancy without fear of cost of labour and delivery. Couples considering adoption of a newborn will not have any hesitations because of adoption fees and they can give the child the stability of having the same parents since the beginning of their life. HB 1317 could be the reason a woman would not choose an abortion, and that would be one more life saved and to rejoice. I hope to make a stand today for my future clients to have more options, for women to feel safe knowing that they and their child will be taken care of if they choose life, and for the protection and potential of the future generation.

I thank you for your time this afternoon and urge a do pass recommendation on HB 1317.
I stand for questions.

January 20, 2021

Testimony regarding HB 1317

Greetings to you, Chairman Weisz and members of the House Human Services Committee:

Thank you for this opportunity to speak regarding HB 1317. I am Rev. Grace Murray, pastor and teacher of People's United Church of Christ in Fargo. We are a small congregation whose purpose is to extend the welcome of Jesus to all God's people.

As a pastor and teacher, I am aware of the many difficult choices that women are confronted with when faced with an unintended pregnancy. I am also aware of the deep hurt that families face when they desire to grow their families, but are unable to biologically. Offering financial assistance to biological mothers and potential adopters is an important step in ensuring a good quality of life for children and families.

While I support that, I feel that this bill in its present form is failing children and potential adoptive families by limiting those who may receive the assistance to married heterosexual couples. Single parents, unmarried couples, and LGBTQ persons have been providing loving, nurturing and healthy environments to children and should be afforded the same opportunities to adopt.

In the congregation I serve, we welcome all forms of family. It is a part of our calling.

But I am also here as a grandmother to two children that I love dearly. My daughter and her son live with me. Her daughter is adopted, and we have an open adoption so that my granddaughter, who I will refer to as V, will always know her family of origin. I remember when my daughter was pregnant for the second time. She had made a difficult decision to become a single parent to her first born. She is a competent, loving mother. However, it has been a struggle for her. We have been able to make things work as a three-generation household. When she became pregnant with V, she considered all her options and made the decision to place V for adoption.

That decision was probably one of the most difficult she has ever made. She looked at the best interest of both her children, and herself. It was important to her to find a family that shared the values she had been raised with. I learned that a woman I know, who I will refer to as K, was considering adoption. A single, queer woman, who is also a marriage and family therapist, K seemed to be a person that would offer her daughter the love and acceptance we would want for this precious child.

I introduced them. My daughter met her and did a thorough interrogation. As I listened to their conversation, it was apparent that K would provide the environment for a child to flourish and grow. It was also evident that we would remain a part of V's life, not just a footnote in her history.

But it was not easy. Both K and my daughter did have financial hardships. Adoption is expensive, for the adopters and the birth mother. Financial assistance as that which is proposed would help many families make this loving decision.

It is the right thing to do. It is the right thing to do for all types of families. For married couples, whether the partners be opposite sex or same sex. For single people who can give so much to a child.

When my daughter made the decision to place V for adoption, her intent was to find the parent or parents who would raise her in a way that was as close to the way she would want to raise her if she could. It is unimaginable to think that V might have been deprived of a parent who, in our eyes, is the parent chosen for her. One who loves her unconditionally. One who will provide opportunities for her that we can only imagine.

On the day of her adoption, the judge was shocked as he entered the courtroom. In that hearing, there were around 30 people there to witness the birth of this new family. Each person had to be identified by name and relationship. K's pastor was there. Another clergyperson, V's godfather, was there. Numerous people from their church. The last two names called were biological mother and biological grandmother. The judge was delighted to sign the judgment sealing K and V as family, a family loved and nurtured by their community. We have been delighted to have grown our family, with K and V an integral part of us.

Please do not limit the opportunity for children to be raised by the best family for them. I respectfully ask that you return this bill to the sponsors so they can complete the work that they have begun. Recommend that this bill not be passed until the exclusionary language is removed. If lines 13-15 are removed, I would heartily recommend that this bill be passed.

Thank you for your attention. Thank you for your care for all North Dakota families.

Respectfully,

Rev. Grace Murray

Hello to Chairman Weisz and members of the House Human Services Committee,

I am here today to speak regarding HB 1317, a bill to provide financial assistance for adoptions. I am speaking against this bill in its current form.

While I believe in providing financial help for both the medical bills for the biological birth parent and adoption cost for the adoptive parents, the bill's use of exclusionary words is troubling. This will dissuade many possible adoptions, not only for single parents and LGBTQ persons, but even those that may have considered adopting a child out of foster care.

I do understand that this bill is most concerned with decreasing the number of abortions, but I know at its heart it has the goal of protecting all children. With that in mind, I do believe that this assistance should also extend to adoptions of children in foster care.

Being able to provide a steady loving home for a child versus jumping from one foster home to another will greatly improve that child's life and to be a committee to potentially provide that life for a family. It would be a missed opportunity to allow this bill to go forward in its present form.

I myself have had a newborn child that went through the adoption process. I would like to take this time to speak on my experience and why I would not wish a similar financial struggle on anyone else going through this process. Out of respect and privacy for the adoptive mother and my biological daughter I will be using first initials only. For the adoptive mother, I will be using K, and for my biological daughter I will be using V. to give a little back story of K, she has an undergrad in Family Science, a master's in Marriage and Family therapy, and Phd in Human Development. She also has formerly worked at a large university in North Dakota and is currently a program director of a Marriage and Family grad program. She has also spent 10 years supervising and training therapy students helping families in ND. She also happens to be a single parent, and a queer woman. While people like her contribute to the well-being of ND families, it is unfortunate that she and others are still targets when it comes to their own families. While there has been rejection, I chose K because she is a queer woman and I knew she would never reject a child.

At this time I would like to share a photo of K and V. She is one of the most caring parents I would ever care to meet. She has been an excellent and nurturing parent to my daughter. She has been caring toward myself during this entire process. But despite how well-rounded she is, this was a huge financial strain for her, including having to take out a third mortgage on her home. I myself was still left with a \$3000 medical bill due to adoption laws limiting the adoptive parent's ability to offer any assistance.

To not have the financial strain attached to something that is already emotionally difficult like adoption should be something that is offered to all families considering adoption, biological parents and any potential adoptive parents regardless of marital status, gender identity or sexual orientation. I would find it equally objectionable if persons were excluded based on a particular religious belief.

I believe that my testimony proves my support of providing financial assistance to the adoptive and biological parents, but find the exclusionary terms unwarranted. I believe removing those

conditions will actually expand the amount of adoptions we will see and provide a better quality of life for all children and potential children.

I respectfully urge the Committee to return this bill to the sponsors for revision before recommending that the bill be passed.

Thank you for your time.

Elizabeth Dill

January 20, 2021

Good Afternoon Chairman Weisz and members of the Human Services committee. I am Brandi Hardy. I am the Legislative Coordinator for the North Dakota Human Rights Coalition (NDHRC).

Today I am here to state the NDHRC's position on HB 1317 will remain neutral as long as sentences 13 - 15 are removed in which it states, **"The payment of reasonable fees directly incurred by a married couple who are members of the opposite sex for an adoption of a newborn which occurs under subdivision a."**

This language is discriminatory against couples of the opposite sex who are unwed; same-sex couples; and single individuals who are ready to become parents. NDHRC believes that the children of ND deserve families that provide a safe, nurturing, and loving home to grow up in.

Sentences 13 - 15 imply a loving home can be created ONLY by a married couple of the opposite and eliminates so many potential families for these children. In her written testimony provided to this committee, Rachel Thomason, an adoption attorney, states that this language would deny at least half of the adoption clients she works with because of their marital status or sexual orientation.

Additionally, denying potential parents access to financial assistance for their adoption journey, it can create an ethical dilemma for professionals. I spoke with Kristin Rubbelke, the Executive Director of the National Association of Social Workers of North Dakota Chapter (NASW-ND). During our conversation and in her written testimony she has provided the committee, she states, "... its denial of the pregnant individual's right to self-determination. The NASW Code of Ethics supports the inherent dignity and worth of the individuals, which means giving the individuals 'the opportunity to change and address their own needs.'"

I also spoke with Sue Grundysen, the Program Director of Adoption Services through the Village Family Services Center. She too provided written testimony for the committee. You will notice in her testimony she outlines two main concerns about HB 1317. They include coercion and again, discrimination.

Today, I also have the privilege to introduce you to two amazing women to share their stories with the committee today. Reverend Grace Murray is a pastor and teacher of People's United Church of Christ in Fargo and her Daughter Elizabeth Dill, who goes by the name Sage.

Chairman Weisz and committee members, I encourage you to remove sentences 13 - 15 from HB 1317.

Thank you.

Brandi Hardy
brandihardy60@gmail.com

My name is Annie Prafcke. While I was adopted from the city of Wuhu in Anhui Province, China at 6 months old, I have lived almost my entire life in Fargo, where I now work as a journalist.

I write to you today to ask you to vote “no” on HB 1317 because it denies unmarried couples, homosexuals and single people the same opportunities as heterosexual married couples for adoption. Specifically, I believe this bill is unconstitutional on the basis of Title VII, Civil Rights Act of 1964, which bans discrimination on the basis of race, color, religion, sex and national origin.

My mother adopted me from China in 1996 and returned shortly after in 2001 to adopt my younger sister, Ellie. As a single parent unable to have kids of her own, adoption was a way for my mom to fulfill her desire to raise children. In all my 25 years, she has shown me more love than I could have imagined from a mother. She dedicated hours to reading books with my sister and me in elementary school, taught us the value of service through preparing 500 turkey dinners every Thanksgiving at First Presbyterian Church Fargo, and drove us all around North Dakota to orchestra rehearsals and gymnastics meets. Today, she continues to patiently support us to follow our dreams and ambitions.

While HB 1317 states that the Department will provide financial assistance to people married to the opposite sex for costs associated with a pregnancy resulting in the adoption of a newborn, this funding excludes prospective parents who do not fall into this category, including homosexual couples, unmarried couples, and single parents like my mother.

The costs of adoption can be high, especially if it is an intercountry adoption, such as mine and my sister’s. Financial assistance could certainly provide immense help to those pursuing adoption, however, it is unjust to deny these funds to people on the basis of sex, sexual orientation or marital status.

It pains me to think that kind, goodhearted people like my mother might be discriminated against in their journey to start a family. Perhaps worse, in excluding deserving prospective parents from this financial assistance, I worry it will prevent children currently in foster care, or in orphanages like I was, to be adopted into loving families.

I urge you to please vote “no” on this bill.

My name is Rachel Thomason. I am an attorney, small business owner, mother to two young boys, and wife to a wonderful man who also works as an attorney in Bismarck. We have lived and worked and raised our family in the heart of Bismarck for almost 12 years.

I write to you today to encourage you to vote “no” on HB 1317, as it would unconstitutionally exclude prospective parents on the basis of sex, sexual orientation, and marital status. Title VII bans discrimination of this type, particularly with regard to that based on sexual orientation.

One of the greatest achievements in my legal career has been to help families complete their long-held dreams of adopting children. When my clients visit with me for the first time seeking to adopt a child, I get to be a part of a beautiful process. These prospective parents come to me as caring individuals, willing and capable of providing a child a loving home, completely devoted to providing the best life possible to a child in need.

As an adoption attorney, I work with married couples of the opposite sex, married couples of the same sex, unwed couples, and single parents. I would estimate that at least half of my adoption clients would be negatively impacted by the passage of this bill. My clients come from all walks of life and all financial circumstances, but the cost of adoption can sometimes be debilitating and unmanageable. This financial strain could be such a burden that, absent financial assistance, prospective parents may not be able to adopt at all.

HB 1317 is introduced with the guise of generosity, as it provides that the Department will give financial assistance to individuals for costs associated with a pregnancy resulting in the adoption of a newborn; however, this financial support shall only be provided to married couples who are members of the opposite sex.

While a large portion of my legal practice is adoption, I also work with clients as a mediator in divorce and custody matters, and for the guardianship of children. In these areas, I work with families who face drug or alcohol abuse, domestic violence, and child abandonment. In my experience, a person’s marital status and/or sexual orientation have absolutely no bearing on whether a person will be a good and loving parent.

This bill unconstitutionally and unreasonably excludes from financial assistance an enormous pool of loving, capable, prospective parents. If, as only one attorney, at least half of my adoption clients are same-sex couples, unwed couples, or single parents, how many loving families are being excluded by this bill? How many children will not get the best possible home because their prospective parents can’t afford without assistance to adopt them? If this proposed legislation negatively affects even one child, that is too many.

I urge you to please vote no on this bill.

Chairperson Weisz and members of the committee,

My name is Kristin Rubbelke and I am the Executive Director of the National Association of Social Workers North Dakota Chapter (NASW-ND). On behalf of NASW-ND, thank you for reading and considering our position on HB1317.

NASW-ND opposes HB 1317 as written due to discriminatory language that could prohibit family members and others from adopting.

For those seeking adoption, language in HB 1317 is discriminatory as it only permits financial support to the pregnant individual if they choose married, same sex couples as the parents for their child. Social workers support keeping a child within the family and/or culture whenever possible. The language of the proposed bill excludes an individual from choosing their widowed mother as the adoptive parent, or brother who is not yet married, or best friend who has tried to conceive but cannot. Denial of financial assistance under HB 1317 for these reasons creates a barrier of choice for pregnant individuals seeking adoption for their child.

Coincidentally, it also creates discriminatory practices for those seeking to adopt. Single parents, unwed couples (same and opposite sex), and same-sex couples and families headed by same-sex couples deserve the protections available to opposite-sex married couples in North Dakota.

Furthermore, language presented in HB 1317 poses ethical dilemmas for social workers—not only in its discriminatory language but also in its denial of the pregnant individual's right to self-determination. The NASW Code of Ethics supports the inherent dignity and worth of the individual, which means giving the individual "the opportunity to change and address their own needs." The inherent purpose of the bill is to create financial support in cases where individuals are deciding to make their baby available for adoption. Accordingly, the current language is counterproductive, and would limit options for adoption.

Therefore, NASW-ND supports changing the language to indicate that pregnant individuals are able to choose from all family types without financial repercussion.

Testimony
House Bill 1317 - Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

January 20, 2021

Chairman Weisz and members of the Human Services Committee, I am Cory Pedersen, Director of the Children and Family Services Division for the Department of Human Services (Department). I appear today to provide testimony on House Bill 1317.

House Bill 1317 directs the Department to develop a program to provide financial assistance to individuals for costs associated with a pregnancy that results in an adoption of a newborn.

Currently, the Department does not provide any fiscal compensation for individuals who are adopting newborns from private licensed child placement agencies. The Department does provide reimbursement of the non-recurring expenses of adoption for those families adopting a child with special needs through the public agency (human service zones and tribes) who qualify for the adoption assistance program. Therefore, we are assuming that this Bill would seek to assist adoptive families who are adopting infants placed with private agencies by their birth parents in a voluntary manner.

Birth parents privately placing their children for adoption often do have Medicaid to pay for the medical expenses of pregnancy care, labor, and delivery. In recent contact with licensed child placing agencies, they have indicated that 70 – 90% of birth parents placing infants do have Medicaid coverage.

The Department notes that the limitation in the bill regarding who can access the funding may open the State to litigation from single individuals, non-married couples, and same sex married couples, alleging discrimination.

The following is information related to the Department's fiscal note:

- In averaging the number of private agency infant adoptions over a 5-year period, the Department estimates that 36 adoptions occur per year (72/biennium). The average cost per adoption was estimated after contact with in-state licensed child placement agencies and consulting national data regarding costs as \$25,000/ adoption.
- Because the majority of birth parents have Medicaid coverage for labor and delivery, the Department anticipates approximately 22 birth parents/ biennium

that would need the medical coverage set forth in this Bill at an estimated cost of \$100,518.

- One FTE is requested to build this new program from the ground up. There is no model for such a program in other states that would provide guidance in this regard. Staff would be required to establish rule and policy, create forms for application to the program, collaborate with Medicaid staff, establish a method to make the payments (The Department does not have a platform currently that such payments could be run through), provide information to child placing agencies regarding this new program and provide technical assistance to agency and individual constituents.
- This program would be funded in its entirety by state funds as the Department is not aware of any federal programs that could be accessed for this service.

This concludes my testimony, and I am happy to answer any questions you may have.

Human Services Committee
Representative Weisz, Chairman

Mr. Chairman and members of the committee, my name is Susan Grundysen.

I am the Program Director of Adoption Services through The Village Family Service Center. As a licensed child placing agency, we have been providing adoption services since 1891. I am writing to oppose HB 1317. While I support women who consider adoption for their child, and although likely well-intentioned when written, I have two main concerns regarding the passage of this bill which makes me oppose this bill:

1) Coercion.

- a. Concerns exist related to the potential for women in crisis to continue a pregnancy, receive assurance medical bills will be covered, and then be “beholding” to a system to release their child for adoption as a part of getting their medical bills paid. This is too close to coercion, if not upfront, certainly after birth, and could certainly meet the threshold of duress.
- b. Concerns also exist related to the potential for women in crisis to continue a pregnancy, receive assurance medical bills will be covered, and then have her plans be hijacked by a biological father to the child who does not support the adoption plan. Or, as is often the case, by the time the child is born, circumstances and emotions have changed, and adoption is no longer the desired plan by the mother for her baby. This leaves a woman vulnerable and beholding to a plan she no longer desires.

2) Discrimination.

- a. The requirement of the adoptive couple to be married and of the opposite sex is discriminatory to both single persons and those persons who do not describe themselves in the traditional, heterosexual definition.

Thank you.

Susan Grundysen sgrundysen@thevillagefamily.org ph: 701-451-4940



House Human Services Committee
North Dakota State Capitol
600 E. Boulevard Ave
Bismarck, ND 58505

January 20, 2021

Re: Human Rights Campaign Opposition to H.B. 1317

Dear Chair Weisz and Members of the Committee,

The Human Rights Campaign (HRC), on behalf of its three million members and supporters nationwide, thanks you for the opportunity to submit testimony to help inform your deliberation on H.B. 1317. This bill is clearly unconstitutional and an indefensible limitation on the privileges of marriage. We urge you to reject this legislation.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ citizens and realize a nation that achieves fundamental fairness and equality for all.

If the state of North Dakota intends to extend benefits to people who are married, they must do so to all people who are married. Limiting the benefits of marriage to different-sex married couples, and excluding therefore same-sex married couples, is unacceptable as a matter of law.

The 2015 United States Supreme Court decision in *Obergefell v. Hodges* made it clear that the United States Constitution forbids the withholding of the privileges of marriage from same-sex couples. Marriage is a fundamental right protected by the Due Process clause, because the right to marry is inherent to the concept of individual autonomy. The decision specifically dwells on issues of family, and marriage's role in building a home and raising children, and finds that denying the benefits of marriage to same-sex couples is harmful to families. Subsequent cases, including the 2017 decision in *Pavan v. Smith*, have made it clear that efforts to limit the privileges of marriage from same-sex couples and their families will not be tolerated. Further, the Constitution requires equal protection of the law, which is also violated by laws which deny the benefits of marriage to same-sex couples.

There is no question that the limitation of these benefits to married different-sex couples violates the United States Constitution. The purpose of such a limitation is to impose exactly the dignitary harm that the *Obergefell* decision forbids. This limitation is both indefensible and illegal.

Thank you for the opportunity to submit testimony, and we request that you immediately reject this insulting and unconstitutional bill.

Sincerely,

A handwritten signature in black ink, reading "Cathryn M. Oakley". The signature is fluid and cursive, with the first name "Cathryn" being more prominent than the last name "Oakley".

Cathryn Oakley
State Legislative Director and Senior Counsel
Human Rights Campaign