2023 SENATE HUMAN SERVICES

SB 2104

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2104
1/9/2023

Relating to early childhood services, resource and referral services, workforce development, early childhood inclusion support program, best in class program, and disclosure of child abuse and neglect confirmed decisions involving early childhood services.

9:19 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Proposed changes
- Inclusion support program
- Electronic payments
- Disclosure of child abused and neglect
- Non-profit Grants
- Staff/programs changes

9:20 AM **Carmen Traeholt, Early Childhood Licensing Administrator ND Department of Health, and Human Services** testimony in favor #12548

9:40 AM J**essica Thomasson Executive Director Human Resources Division ND Department of Health and Human Services** provided additional verbal testimony in favor

10:00 AM **Michelle Roeszler** works in childcare business in Fargo, ND area in opposition #12587

Additional Written Testimony:

Linda Schroeder, Self Employed Family Childcare Provider in favor #12571
Vicki Peterson, Family Consultant, Family Voices of North Dakota in favor #12573
Kathy Busche, Owner, The Children's Playhouse in opposition #12562
Sue R. Brady in opposition #12566
Shanna Brady, Owner, Shanna Brady's Childcare in opposition #12570

10:14 a.m. **Madam Chair Lee** closed the hearing

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2104
1/10/2023

Relating to early childhood services, resource and referral services, workforce development, early childhood inclusion support program, best in class program, and disclosure of child abuse and neglect confirmed decisions involving early childhood services.

3:54 PM **Madam Chair Lee** called the committee work meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

3:55 PM **Johnathon Alm**, **Attorney, ND Department Human and Health Services**, prepared an amendment regarding changes. #12814.

Senator Lee asks for a motion.

Senator Hogan moved to **Adopt AMENDMENT.** LC 23.8036.01001

Senator Weston seconded the motion.

Voice Vote: Motion carried.

Senator Hogan moved **DO PASS** as **AMENDED.**

Senator Cleary seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

The motion passed 6-0-0.

Senator Lee will carry SB 2104.

4:02 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

23.8036.01001
Title.02000

Adopted by the Senate Human Services Committee

January 10, 2023

AG
1-10-23
(1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2104

Page 8, line 18, overstrike "For" and insert immediately thereafter:

"1. Except as provided under subsection 2, for"

Page 8, line 21, after the underscored period insert " 2. An in-home, self-declaration, family child care, and group child care provider's own child, foster child, or grandchild over the age of eleven are exempt for the purpose of determining the number of children receiving early childhood services under this section.

3."

Page 8, line 23, after the period insert "4."

Page 32, line 8, replace "developmental disability service" with "disability-related services and support"

Page 32, line 9, replace "developmental disability service" with "disability-related services and support"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2104: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2104 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 8, line 18, overstrike "For" and insert immediately thereafter:

"1. Except as provided under subsection 2, for"

Page 8, line 21, after the underscored period insert " 2. An in-home, self-declaration, family child care, and group child care provider's own child, foster child, or grandchild over the age of eleven are exempt for the purpose of determining the number of children receiving early childhood services under this section.

3."

Page 8, line 23, after the period insert "4."

Page 32, line 8, replace "developmental disability service" with "disability-related services and support"

Page 32, line 9, replace "developmental disability service" with "disability-related services and support"

Renumber accordingly

2023 HOUSE HUMAN SERVICES

SB 2104

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2104
3/6/2023

Relating to early childhood services, resource and referral services, workforce development, early childhood inclusion support program, best in class program, and disclosure of child abuse and neglect confirmed decisions involving early childhood services.

Chairman Weisz called the meeting to order at 10:12 AM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, and Gretchen Dobervich present. Vice Chairman Matthew Ruby and Rep. Jayme Davis not present.

Discussion Topics:

- Service providers
- Updating definitions and language
- Service practices
- Electronic mail
- Child neglect language

Jonathan Alm, attorney with the Department of Health and Human Services, supportive testimony (#22117).

Chairman Weisz delegated Rep. Beltz as Acting Chairman at 10:36 AM.

Acting Chairman Beltz adjourned the meeting at 10:41 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2104
3/20/2023

Relating to early childhood services, resource and referral services, workforce development, early childhood inclusion support program, best in class program, and disclosure of child abuse and neglect confirmed decisions involving early childhood services.

Chairman Weisz called the meeting to order at 11:15 AM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Vice Chairman Matthew Ruby not present.

Discussion Topics:

- Committee work
- Age limit to services

Chairman Weisz called for a discussion on SB 2104.

Jonathan Alm, Attorney with the Department of Health and Human Services, answered questions from the committee.

Chairman Weisz adjourned the meeting at 11:41 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2104
3/21/2023

Relating to early childhood services, resource and referral services, workforce development, early childhood inclusion support program, best in class program, and disclosure of child abuse and neglect confirmed decisions involving early childhood services.

Chairman Weisz called the meeting to order at 3:34 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

Discussion Topics:

- Committee work
- Amendment
- Age limit to services

Chairman Weisz called for a discussion on SB 2104 and the proposed amendment.

Rep. Fegley moved to adopt amendment 23.8036.02003 to SB 2104.

Seconded by Rep. Anderson.

Motion carries by voice vote.

Rep. Frelich moved a do pass as amended on SB 2104.

Seconded by Rep. Fegley.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y

Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 14-0-0.

Carried by Rep. Fegley.

Chairman Weisz adjourned the meeting at 3:43 PM.

Phillip Jacobs, Committee Clerk

Adopted by the House Human Services Committee

March 21, 2023

3-21-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2104

Page 4, line 19, remove the overstrike over "~~eleven~~"

Page 4, line 19, remove "twelve"

Page 4, line 21, remove the overstrike over "~~but less than~~"

Page 4, line 21, remove "through"

Page 4, line 24, remove the overstrike over "~~eleven~~"

Page 4, line 24, remove "twelve"

Page 7, line 30, remove the overstrike over "~~eleven~~"

Page 7, line 30, remove "twelve"

Page 8, line 2, remove the overstrike over "~~but less than~~"

Page 8, line 2, remove "through"

Page 8, line 5, remove the overstrike over "~~eleven~~"

Page 8, line 5, remove "twelve"

Page 8, line 20, remove the overstrike over "~~and~~"

Page 8, line 21, remove the overstrike over "~~under~~"

Page 8, line 21, remove "through"

Page 8, line 29, replace "twelve" with "eleven"

Page 9, line 14, remove the overstrike over "~~eleven~~"

Page 9, line 14, remove "twelve"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2104, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2104 was placed on the Sixth order on the calendar.

Page 4, line 19, remove the overstrike over "~~eleven~~"

Page 4, line 19, remove "twelve"

Page 4, line 21, remove the overstrike over "~~but less than~~"

Page 4, line 21, remove "through"

Page 4, line 24, remove the overstrike over "~~eleven~~"

Page 4, line 24, remove "twelve"

Page 7, line 30, remove the overstrike over "~~eleven~~"

Page 7, line 30, remove "twelve"

Page 8, line 2, remove the overstrike over "~~but less than~~"

Page 8, line 2, remove "through"

Page 8, line 5, remove the overstrike over "~~eleven~~"

Page 8, line 5, remove "twelve"

Page 8, line 20, remove the overstrike over "~~and~~"

Page 8, line 21, remove the overstrike over "~~under~~"

Page 8, line 21, remove "through"

Page 8, line 29, replace "twelve" with "eleven"

Page 9, line 14, remove the overstrike over "~~eleven~~"

Page 9, line 14, remove "twelve"

Renumber accordingly

TESTIMONY

SB 2104

NORTH Dakota | Health & Human Services
Be Legendary.

Testimony
Senate Bill No. 2104
Senate Human Services Committee
Senator Judy Lee, Chairman

January 9, 2023

Chairman Lee, members of the Senate Human Services Committee, I am Carmen Traeholt, Early Childhood Licensing Administrator for the Department of Health and Human Services (Department). I am here today to register the Department's support for Senate Bill 2104, which was introduced on behalf of the Department.

Senate Bill 2104 offers a number of clarifications to definition of terms, and roles and responsibilities related to licensing for early childhood services, as well as language that both simplifies and clarifies delivery of resources and assistance to early childhood providers.

I will walk through each section of Century Code referenced in the Bill and describe the proposed changes.

Section 1. The proposed changes in Section 1 of this Bill amend section 50-11.1-02 of the North Dakota Century Code by adding definitions for the terms "Applicant", "Licensee", "Operator", and "Provider"; revisions to the definition of "Four-year old program", "Owner", and "Staff member"; and updates to the definitions of "School-age child care", "School-age children", and "Self-declaration" to clarify the age range intended in the reference. Most of these changes are intended to more clearly define the role of the parties who are involved in application for licensure as an early childhood services provider.

The proposed change to the definition of "Four-year old program" removes a duplicative requirement for licensed early childhood programs to also receive approval as a "four-year old program". Section 27 of this

Bill, together with this definition change, describes eligibility for the best in class program in a way that is inclusive of all intended provider types.

Section 2. The proposed changes in Section 2 of this Bill amend Section 50-11.1-02.1 of the North Dakota Century Code by adding clarifying language related to the ages of school age children who are to be included when determining the number of children receiving early childhood services.

Section 3. The proposed changes in Section 3 of this Bill amend section 50-11.1-02.3 of the North Dakota Century Code by replacing "sudden infant death syndrome" with "safe sleep" when describing the required training course for early childhood provider staff members.

Section 4. The proposed changes to Section 4 of this Bill amend section 50-11.1-03 of the North Dakota Century Code by aligning the age ranges described in subsection 1 with definitions in 50-11.1-02, section 1 of this Bill, and by removing the reference to "the department's authorized agent" in subsections 5, 9 and 10, which acknowledges the transfer of licensing responsibility from Human Service Zones to the Department by the 67th Legislative Assembly. Additionally, subsections 7 and 9 replace "operator" with "owner" in describing the person responsible for licensing fees and penalties.

Section 5. The proposed changes in Section 5 of this Bill amend section 50-11.1-04 of the North Dakota Century Code. In subsection 1 "finding of services required" is replaced with "confirmed decision" to align to current practices in child protective services, as defined in NDCC chapter 50-25.1. Subdivisions d, e and f of subsection 1 clarify that the Department, when looking at past history for purposes of an early childhood license, will consider the applicant and "anyone who is listed on the application", and removes references to "owner" and "operator".

Subdivision g of subsection 1 is updated to reflect the proposed definition of "Staff member".

Subdivision h of subsection 1 is removed because it is redundant to the requirements outlined in subdivision g of subsection 1.

Subsections 2, 4 and 5 removes or replaces references to "owner" or "operator" with "applicant" or "licensee" as appropriate.

Sections 6. The proposed changes in Section 6 of this Bill amend section 50-11.1-06 of the North Dakota Century Code, removing reference to Human Service Zones as "the department's authorized agent" and again replaces "finding of services required" with "confirmed decision" to align to child protective services practice.

Section 7. The proposed changes in Section 7 of this Bill amend section 50-11.1-06.2 of the North Dakota Century Code, clarifying that the Department is responsible for criminal background checks by removing references to "division of children and family services" and "the department's authorized agent". The proposed changes replace "determination of services required" with "confirmed decision" to align to child protection services practice and to update language.

Section 8. The proposed changes in Section 8 of this Bill amend section 50-11.1-07 of the North Dakota Century Code by removing references to the Department's "authorized agent" from subsections 1, 2 and 3. Subsection 4 updates parameters for disclosure of information to include both "a provider or applicant who provides or provided care for the child" and "a department approved data sharing agreement". Subsections 1, 5 and 6 remove reference to "of a provider of early childhood services" and "early childhood services" because the updated definitions of "provider", "licensee" and "staff member" render the phrase redundant.

Section 9. The proposed changes in Section 9 of this Bill amend

section 50-11.1-07.1 of the North Dakota Century Code to mail or electronically mail inspection notices to the owner and operator.

Section 10. The proposed changes in Section 10 of this Bill amend section 50-11.1-07.2 of the North Dakota Century Code related to correction orders. Proposed changes to subsection 1 clarify that it is the "licensee" or "holder of a" self-declaration who receives a correction order and who may be assessed a fiscal sanction. The proposed changes also removes the reference to Department's "authorized agent". Subsection 2 describes the timing of required notice to parents that a correction order has been received; the proposed change adjusts the timing to account for both mailing and electronic transmission.

In December 2022, North Dakota's early childhood licensing process transitioned to the new Child Care Licensing (CCL) platform. The CCL gives child care providers the ability to more easily update information needed to support licensure. It also provides a streamlined means of communicating information between licensing specialists and providers, including communication related to corrective actions or sanctions. When child care providers establish their account in CCL they have the ability to indicate if they wish to receive communication via an email address they provide to us. CCL then provides a log of all communication that is sent via email, for easier reference by the provider and the licensing staff. The changes proposed in Senate Bill 2104 will help facilitate the use of the communication practices that are now possible with the implementation of CCL.

Sections 11 and 12. The proposed changes in Sections 11 and 12 of this Bill amend 50-11.1-07.3 and 50-11.1-07.4 of the North Dakota Century Code to remove reference to the Department's "authorized agent" and adds an opportunity to utilize mail or "electronic mail" for notices of noncompliance with correction orders.

Section 13. The proposed changes in Section 13 of this Bill amend section 50-11.1-07.5 of the North Dakota Century Code to remove reference to "authorized agent" of the Department, replace "program" and "facility" with "licensee" or "holder of a self-declaration", and update delivery of required notices via mail or electronic mail, including adjustments to timing of notices to account for both mail and electronic delivery.

Section 14. The changes proposed in Section 14 of this Bill amend 50-11.1-07.6 of North Dakota Century Code to adjust the timing and acceptable methods of delivery of notices of noncompliance to account for both electronic and mail, replaces "program" with "licensee", and to remove reference to "authorized agent".

Section 15. The proposed changes in Section 15 of this Bill amend section 50-11.1-07.8 of the North Dakota Century Code. In subsection 1 "operator" is either removed or replaced with the more inclusive term "staff", and "services required determination" is replaced with "confirmed decision" in both subsections 1 and 3, as noted in previous sections.

In subsections 2 and 5, the proposed amendment adds "operator" to the list of people who are required to receive notice of child abuse and neglect as outlined in said subsection, and later removes reference to "operator" as the newly updated definition of "staff member" renders it redundant.

Section 16. The proposed changes in Section 16 of this Bill amend section 50-11.1-09 of the North Dakota Century Code by removing two references to "early childhood services" as its inclusion is rendered redundant by the new definition of "provider".

Section 17. The proposed changes in Section 17 of this Bill amend section 50-11.1-11.1 of the North Dakota Century Code to align state law with the requirement outlined in the federal Child Care Development

Fund. The proposed change adds "nonprofit" as a modifier to "private entity" and makes consistent reference to "public or private nonprofit entity or the department" throughout the section.

The proposed changes to subsections 3, 4, 5, 6, and 7 would permit a public or private nonprofit entity or the Department to provide early childhood services resources and referral.

Subsections 5 and 7 remove details of the nature of service to be included in a child care resource and referral as this is defined in contract and the state Child Care Development Fund plan.

Section 18. The proposed changes in Section 18 of this Bill amend section 50-11.1-12 of the North Dakota Century Code by replacing "program" with "licensee" and removing reference to the Department's "authorized agent".

Section 19. The proposed changes in Section 19 of this Bill amend section 50-11.1-14 of the North Dakota Century Code replacing "distance" with "various" when describing learning formats and to remove reference to the Department's "authorized agent".

Section 20. The proposed changes in Section 20 of this Bill amend section 50-11.1-14.1 of the North Dakota Century Code to update language. In subsection 2 the proposed amendment replaces "facilities" with "programs" as it is a defined term. Subsection 3 is amended to add "quality" and "sustainable operations" as part of the purpose of child care capacity supports and incentives. Subdivisions b and c of subsection 3 replace "grants" with "direct payments" to allow for more streamlined delivery of assistance.

Subsection 5 exempts the programs outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 21. The proposed changes in Section 21 of this Bill amend section 50-11.1-15 of the North Dakota Century Code, increasing the reimbursement rate for Early Childhood Advisory Committee members, all of whom are providers of early childhood services, from one hundred dollars to two hundred dollars if they have to hire a substitute to enable their participation in meetings. The phrase "early childhood service" is removed in two locations as the updated definition of "provider" renders it redundant.

Section 22. The proposed changes in Section 22 of this Bill amend section 50-11.1-16 of the North Dakota Century Code by removing reference to the Department's "authorized agent" and a redundant reference to "early childhood services".

Section 23. The proposed changes in Section 23 of this Bill amend section 50-11.1-17 of the North Dakota Century Code to include several language updates as outlined in previous sections, including removal of reference to the Department's "authorized agent", "finding of services required", and a replacement of "program" with "holder of a self-declaration".

Section 24. The proposed changes in Section 24 of this Bill amend section 50-11.1-18 of the North Dakota Century Code. The proposed changes rename the program from "Early childhood services inclusion support services and grant program" to "Early childhood inclusion support services program".

Subsection 1 removes reference to the department of commerce as that agency is no longer involved in administering early childhood programs and grants and references the updated program name. The proposed amendment also adds "special needs" to the description of children for whom provision of care is a consideration of eligibility. Throughout the rest of this section, the consistent reference is "children

with disabilities, special needs, or developmental delays". Subsection 1 is also amended to clarify that the program offers both "direct payments and technical assistance".

Subsections 2 and 4 remove redundant references to "early childhood services" when referring to "providers", makes consistent the description of care provided to children, as noted in subsection 1, and replaces "business" with "premises" as a defined term. Subsection 4 also removes providers who are not yet licensed from being eligible to participate in the program until they are licensed.

Subsections 3 is proposed to be removed as it is not used in administration of this program.

Subsection 5 is proposed to be removed as it is redundant to requirements outlined in subsection 1.

Subsection 6 (re-numbered as subsection 4) defines the term "special needs", as referenced in this section. Newly numbered subsection 6 exempts the program outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 25. The proposed changes in Section 25 of this Bill amend section 50-11.1-19 of the North Dakota Century Code by replacing "a facility licensed" with "an early childhood program" as a defined term.

Section 26. The proposed changes in Section 26 of this Bill amend section 50-11.1-22 of the North Dakota Century Code, renaming the section to "best in class program".

Subsection 1 removes "four-year-old" as a modifier to "program", to align to the updated definition of "four-year-old program" outlined in section 1 of this Bill and refers to an application for the "best in class program", removing "four-year-old experiences grant" as a modifier.

To continue to enable the best in class program to serve both small and large size programs, the proposed amendment to subsection 1

removes specific reference to dollar amounts and instead references "program characteristics as established by the department". Subdivisions b and c of subsection 1 and subsection 2 replace "grant funds" with "awarded funds" and "grant agreement" with "an agreement", to better align to definitions included in state procurement law. Subsection 3 exempts the program outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 27. The proposed changes in Section 27 of this Bill amend section 50-11.1-23 of the North Dakota Century Code related to eligibility for the best in class program.

Subsection 1 includes updated language that assures all intended provider types are eligible to apply for a best in class program award, consistent with the updated definition of "four-year-old program" described in Section 1 of this Bill. Subdivision e of subsection 1 puts into law quality expectations for various types of providers. Subdivision h of subsection 1 clarifies that an awarded program will operate in compliance with program requirements as established by the Department.

Subsection 2 replaces "grants" with "funds" and refers to approved "applicants" in alignment with changes proposed in Section 26 of this Bill. Subsection 3 removes the word "grant" and replaces reference to "approved four-year-old program" with "an awarded program", and replaces "best in class four-year-old experiences grant program" with "best in class program". Subsection 4 exempts the program outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 28. The proposed changes in Section 28 of this Bill amend section 50-11.1-24 of the North Dakota Century Code by removing reference to "grant" as a modifier to "program" and replacing "grants" with "direct payments" or "awarded funds" as appropriate. The proposed

changes also clarify that awarded best in class programs must comply with both data collection and "program evaluation" requirements established by the Department.

Section 29. The proposed changes in Section 29 of this Bill amend section 50-11.1-26 of the North Dakota Century Code by removing a redundant reference to "early childhood services".

Section 30. The proposed changes in Section 30 of this Bill amend section 50-25.11-11 of the North Dakota Century Code to add consistent reference to the notification requirements outlined in the early childhood chapter (50-11.1-07.8). The proposed change adds "upon the conclusion and disposition of a child abuse and neglect assessment for which a determination of confirmed decision if found".

This concludes my testimony. I would be happy to try to answer any questions the committee may have.

1/8/2023

To whom it may concern:

My name is Kathy Busche, I am the owner of two childcare programs in Hazen, North Dakota. One is a Group facility where we care for children from birth until they go to kindergarten. The second program is a Group Home program where we care for children from Kindergarten until their 12th birthday.

SB 2104 proposes a couple of changes that concern me. First it proposes changing the age of children in care from until their 12th birthday to through age 12 which would mean that children age 12 years 11 months could be considered in our ratios. This is a concern as it could add to our already tight ratios. Children age 12 in ND are considered old enough to babysit and should not need to be in child care. For me personally my own children were considered staff the day they turned 12 years old. At 12 they couldn't be left alone with the children, but they were great help in entertaining children so I could focus on individual children who may need more one on one attention, especially during the summer months. Also, as background checks currently stand children aged 12 or older are required to be background checked as household members for home programs. This would not directly affect my program as my children are grown, but I know it will be an issue for providers across the state who have their own children age 11, turning 12 who they are planning to have age out of childcare and become staff.

The second concern I have with SB 2104 is the removal of certified mail as a means of communication between the Department and the provider. The change to electronic mail as a means of communication is a great addition for some communications, but I believe it is important for correction orders and fiscal sanctions to be communicated through certified mail so there is proof that the communication was received.

Both these proposed changes occur numerous times throughout SB 2104, and I would like to see these amended to change the age back to through age 11 and re-add certified mail as a means of communication between the Department of Health and Human Services and child care providers.

Thank you for your time.

Kathy Busche

The Children's Playhouse

Hazen, ND 58545

January 8, 2023

RE: SB2104

To whom it may concern,

My name is Sue Brady, I have been a licensed group, in home provider in Bismarck for the past 37 years. I am writing in opposition to select changes in SB2104.

I am in opposition to every change regarding "school-age children" at least five years through twelve years of age. It is in my opinion that the age should remain through eleven years.

Currently, a provider who has a twelve-year-old child, in an in-home family or group child care program, can count this child as a helper, and not include this child in their ratios or total number of children present. This frees up a much-needed spot for a younger child. The twelve-year-old is utilized as a before/after-school helper, used on non-school days, and summer breaks. Adding a twelve-year-old back into our ratios will limit enrollment, increase our costs, while lowering our income and will become harder for families to enroll younger children.

Currently, all children in the home that are age twelve or above are required to have a criminal background check completed. Will this rule change affect all age twelve children brought into our homes? If so, how many parents are willing to have their child subjected to a criminal background check, especially when their child can already legally stay home by themselves?

According to this document; https://www.nd.gov/dhs/info/pubs/docs/cfs/brochure-home-alone.pdf ,

written by the ND Department of Human Services, it states "Children who are the age of 12 years and older may be permitted to act as baby-sitters." Given this information provided by the state, it seems to contradict the change in SB2104. It would seem irresponsible to change the age of children in our care to add a child who is already old enough to care for themselves and others.

Sincerely,

Sue Brady

Brady's Family Childcare

2641 Henry Street

Bismarck, ND 58503

January 8, 2023

Re: SB2104

To Whom It May Concern:

My name is Shanna Brady and I have been a licensed childcare provider for nearly 17 years in Bismarck. I am writing in opposition to select changes to SB2104.

The change from the wording “through eleven years old” to “school-age children at least five years through twelve years of age.” I do not agree with this at all. I have twin 12-year-old girls of my own that have taken CPR/First Aid ($45 each), been fingerprinted ($25 each) and passed a background check so they can be my helpers. They truly have not been a part of my daycare since they were 10 years old. They outgrew the daycare setting by that age. If this were to pass, I would need to terminate 2 children to make room again for my middle school 12-year olds My 12-year olds who are old enough to stay home by themselves and even babysit others according to a ND brochure https://www.nd.gov/dhs/info/pubs/docs/cfs/brochure-home-alone.pdf. This would only make it harder to families to find childcare spots.

I also have to wonder how many 11–12 year olds are actually in childcare. My guess is very few. In my nearly 17 years I have never had a child older than 10 years in my care. I hope you will reconsider this and keep it as is.

Thank you,

Shanna Brady
1000 Schick Dr
Bismarck, ND 58501

January 8, 2023

Committee Members

My name is Linda Schroeder and I have operated my own in-home family childcare business for the past 32 years. I enrolled in the online Early Childhood Program through Mayville in January of 2022. I made this decision because after over 30 years I was asked to get 2 letters of recommendation because I do not have an Early Childhood Degree. I have the mindset that being a lifelong learner is a good thing. I have not regretted my decision. What I have discovered is this. ND Growing Futures which is the agency that approves and allocates training for childcare provider does apply credit for all the classes that are in the Early Childhood Program through Mayville. They need to meet very specific requirements. When I inquired why I was only given credit for 6 classes out of 10 that I submitted I was provided the links below as explanation.

https://www.ndgrowingfutures.org/higher-education

https://www.ndgrowingfutures.org/adding-college-courses-to-record

The transition of childcare in the past three decades as been full of changes. As we continue to move forward, I would ask that you be open to asking questions, being curious and allowing for a broadened perspective to be part of the future of childcare. The childcare industry is essential for growth and development of our state and nation.

I am curious about the fact that my childcare license is for children birth to age 12. I can and have had children older than 12 enrolled in my program. These children are often in foster care or have special needs and need a placement. However, Growing Futures states the course content needs to be 80% specific to Early Childhood. I simply do not agree. If the course work applies and directed towards children, it should count. Why cap it for children up to age 8 when a license application goes beyond that age category?

My husband and I became licensed for Foster Care, and we took over 50 hours of training to become licensed. I could not receive 1 single hour of that training that I could apply to my ND Growing Futures because I was told the training was foster care specific. Yes, the training was related to foster care and children are in foster care. I have had numerous foster care children enrolled into my childcare program over the years. Foster Care children attend childcare just like other children and they come with a multitude of added challenges and needs. It is my opinion that the training be reviewed, and credit should be applied. There is a need for childcare providers and foster care. Why are we not working together and acknowledging training that applies to the needs of “children”.

We took at CPI (Crisis Prevention Institute) training for foster care.
This training event took place over a 2-day period. The content went over children and the trauma, conflict, and challenges they face and how you deal with their emotions and behavior challenges. This directly related to “children”. I was told I would get no credit for any of the

time even though the children I see in childcare are experiencing more and more trauma. I attended the meeting at the Middle School in Fargo prior to Christmas that about 12 legislators attended. I attended the meeting because I am a student at Mayville, and I was given information about the meeting by ND United that I became a member of. I was present when the teachers talked about students Vaping as young as first grade. The safety concerns that are present when the teacher talked about her student throwing her to the floor in October and she is still recovering and going to physical therapy in December. I was there and heard about the principal that was hit 17 times with a chair leg before the student could be gotten under control. I have been slammed into a wall by a 6-year-old that wears a crash helmet due to seizures, braces on his legs and exhibits aggressive behavior when he doesn't not want to transition from an activity. This child happens to also be in foster care and attends my childcare. Dealing with that circumstance I was able to utilize my training from that CPI class that ND Growing Futures does not acknowledge.

Childcare needs regarding the care of children have radically changed over the years. Family dynamics are anything but typical. As providers we start to deal with all the challenges that school settings see in children as young as infants along with the varying ages of children in home childcares and centers. We need to acknowledge the big picture. As we move forward with future legislation regarding childcare, I believe it is vital that we be open to considering additional professional and academic opportunities that allow providers the opportunity to receive and experience training in the form of classes, webinars and conferences that acknowledges the full spectrum of what children, families, and providers experience. We cannot elevate childcare and Early Childhood programs with tunnel vision. Childcare is not black and white we are dealing with a rainbow of issues, challenges, and circumstances.

I appreciate your time. I would be happy answer any questions that you may have.

Sincerely,

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SB2104 Testimony

Senate Human Services

January 9th, 2023

Senator Chairperson Lee, Vice Chair Cleary and Members of the Senate Human Services Committee.

My name is Vicki Peterson, I am a Family Consultant for Family Voices of ND, the Family-to-Family Health Information Network in ND. We are a grass-roots, non-profit who works with families who have children and youth with special health care needs, chronic health conditions and disabilities.

I am providing testimony in favor of SB 2104, section 50-11,1-18; Early Childhood Inclusion Support Services Program. This inclusion program offers many benefits for children with disabilities and special needs to learn from other children and focus on individual strengths of all children. All children learn together and develop a wider array of friendships and most importantly learn that others have differences in abilities and gain awareness.

I work with many families across the state that have much difficulty in finding child care for their child with a disability or special health care need. ND needs this program to build staff confidence and capability to deliver quality childcare to children with disabilities and special needs. Direct payments will allow for extra staff needed for inclusion to be had and technical support will add to new skill development. Inclusive care benefits all children. High quality experiences provide a foundation for development and peer interactions for positive outcomes. Inclusive programs lead to strengthening professional development and partnership with families. Asking for the continuation of the Early Childhood Inclusion Support Services Program and continued funding for direct payments.

Thank you for your time and consideration.

Vicki L Peterson

Family Voices of ND

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My name is Michelle Roeszler. I live in Fargo and have worked in childcare in North Dakota since 2005 as an in-home program owner (legally unlicensed, family, and group), a non-residential group program owner, a center program teacher, and now as a programming provider offering Story + Play sessions in childcare programs as well as substitute services.

I testify today regarding concerns I have regarding proposed changes on SB 2104. My specific concerns include the proposed change to the maximum age a child counts as a school age child in a licensed program as well as the removal of sending certain notices by certified mail.

The proposed change is the maximum age of a school age child counting in a program's capacity from "until age 12" or "through age 11" to "through age 12"has the potential to hold up enrollment in a program of younger children who legally need supervision. This change will likely impact in-home programs the most with a provider's own children now taking up a spot at age 12 that could be used for a family from the community. As the committee knows, childcare is a workforce issue in the state of North Dakota. Our state has a shortage of spots for children whose parents need to work. By tying up spots with 12 year olds will only create additional shortages.

On the subject of supervision of a 12 year old, the department has published in their home alone brochure (www.nd.gov/dhs/info/pubs/docs/cfs/brochure-home-alone.pdf) they specifically state "Children who are the age of 12 yeas and older may be permitted to act as baby-sitters. It is recommended that they successfully complete an approved child care training course."

These same children who this bill proposes need to be counted in a childcare license are old enough in the eyes of the department to babysit other children. They can also be used as staff in the home providers own program.

The second proposed change that concerns me is the removal of certified mail being the required method of communication for notice of non compliance in a reinspection and for notice of fiscal sanctions. These are important communications and electronic mail is not always a reliable method of receiving information. Emails can be received in spam folders quite easily which would leave a program not knowing important information.

I respectfully request that these specific concerns be addressed as amendments before the bill is voted upon.

Thank you for your time.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2104

Page 8, line 18, overstrike "For" and insert immediately thereafter:

"1. Except as provided under subsection 2, for"

Page 8, line 21, after the underscored period insert:

"2. An in-home, self-declaration, family child care, and group child care provider's own child, foster child, or grandchild over the age of eleven are exempt for the purpose of determining the number of children receiving early childhood services under this section.

3."

Page 8, line 23, after the period insert"

"4."

Page 32, line 8 replace "developmental disability service" with "disability related services and supports"

Page 32, line 9 replace "developmental disability service" with "disability related services and supports"

Renumber accordingly

50-11.1-02.1. Number of children in program - How determined.

1. ~~For~~Except as provided under subsection 2, for the purpose of determining the number of children receiving early childhood services, all children present on the premises ~~and under~~through the age of twelve years must be counted for an in-home, self-declaration, family child care, group child care, child care center, and preschool.
2. An in-home, self-declaration, family child care, and group child care provider's own child, foster child, or grandchild over the age of eleven are exempt for the purpose of determining the number of children receiving early childhood services under this section.
3. For the purpose of determining the number of children receiving early childhood services, all children present on the premises aged at least five years through age twelve must be counted for school-age child care.

4. All children present are protected by this chapter regardless of whether money is received or goods or other services are received for their care.

NORTH Dakota | Health & Human Services
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Testimony
Engrossed Senate Bill No. 2104
House Human Services Committee
Representative Robin Weisz, Chairman
March 6, 2023

Chairman Weisz, members of the House Human Services Committee, I am Jonathan Alm, an attorney with the Department of Health and Human Services (Department). I appear before you in support of Engrossed Senate Bill 2104, which was introduced on behalf of the Department.

Engrossed Senate Bill 2104 offers a number of clarifications to definition of terms, and roles and responsibilities related to licensing for early childhood services, as well as language that both simplifies and clarifies delivery of resources and assistance to early childhood providers.

I will walk through each section of Century Code referenced in the Bill and describe the proposed changes.

Section 1. The proposed changes in Section 1 of this Bill amend section 50-11.1-02 of the North Dakota Century Code by adding definitions for the terms "Applicant", "Licensee", "Operator", and "Provider"; revisions to the definition of "Four-year old program", "Owner", and "Staff member"; and updates to the definitions of "School-age child care", "School-age children", and "Self-declaration" to clarify the age range intended in the reference. Most of these changes are intended to more clearly define the role of the parties who are involved in application for licensure as an early childhood services provider.

The proposed change to the definition of "Four-year old program" removes a duplicative requirement for licensed early childhood programs to also receive approval as a "four-year old program". Section 27 of this

Bill, together with this definition change, describes eligibility for the best in class program in a way that is inclusive of all intended provider types.

Section 2. The proposed changes in Section 2 of this Bill amend Section 50-11.1-02.1 of the North Dakota Century Code by adding clarifying language related to the ages of school age children who are to be included or excluded when determining the number of children receiving early childhood services.

Section 3. The proposed changes in Section 3 of this Bill amend section 50-11.1-02.3 of the North Dakota Century Code by replacing "sudden infant death syndrome" with "safe sleep" when describing the required training course for early childhood provider staff members.

Section 4. The proposed changes to Section 4 of this Bill amend section 50-11.1-03 of the North Dakota Century Code by aligning the age ranges described in subsection 1 with definitions in 50-11.1-02, section 1 of this Bill, and by removing the reference to "the department's authorized agent" in subsections 5, 9 and 10, which acknowledges the transfer of licensing responsibility from Human Service Zones to the Department by the 67th Legislative Assembly. Additionally, subsections 7 and 9 replace "operator" with "owner" in describing the person responsible for licensing fees and penalties.

Section 5. The proposed changes in Section 5 of this Bill amend section 50-11.1-04 of the North Dakota Century Code. In subsection 1 "finding of services required" is replaced with "confirmed decision" to align to current practices in child protective services, as defined in NDCC chapter 50-25.1. Subdivisions d, e and f of subsection 1 clarify that the Department, when looking at past history for purposes of an early childhood license, will consider the applicant and "anyone who is listed on the application", and removes references to "owner" and "operator".

Subdivision g of subsection 1 is updated to reflect the proposed definition of "Staff member".

Subdivision h of subsection 1 is removed because it is redundant to the requirements outlined in subdivision g of subsection 1.

Subsections 2, 4 and 5 removes or replaces references to "owner" or "operator" with "applicant" or "licensee" as appropriate.

Sections 6. The proposed changes in Section 6 of this Bill amend section 50-11.1-06 of the North Dakota Century Code, removing reference to Human Service Zones as "the department's authorized agent" and again replaces "finding of services required" with "confirmed decision" to align to child protective services practice.

Section 7. The proposed changes in Section 7 of this Bill amend section 50-11.1-06.2 of the North Dakota Century Code, clarifying that the Department is responsible for criminal background checks by removing references to "division of children and family services" and "the department's authorized agent". The proposed changes replace "determination of services required" with "confirmed decision" to align to child protection services practice and to update language.

Section 8. The proposed changes in Section 8 of this Bill amend section 50-11.1-07 of the North Dakota Century Code by removing references to the Department's "authorized agent" from subsections 1, 2 and 3. Subsection 4 updates parameters for disclosure of information to include both "a provider or applicant who provides or provided care for the child" and "a department approved data sharing agreement". Subsections 1, 5 and 6 remove reference to "of a provider of early childhood services" and "early childhood services" because the updated definitions of "provider", "licensee" and "staff member" render the phrase redundant.

Section 9. The proposed changes in Section 9 of this Bill amend

section 50-11.1-07.1 of the North Dakota Century Code to mail or electronically mail inspection notices to the owner and operator.

Section 10. The proposed changes in Section 10 of this Bill amend section 50-11.1-07.2 of the North Dakota Century Code related to correction orders. Proposed changes to subsection 1 clarify that it is the "licensee" or "holder of a" self-declaration who receives a correction order and who may be assessed a fiscal sanction. The proposed changes also removes the reference to Department's "authorized agent". Subsection 2 describes the timing of required notice to parents that a correction order has been received; the proposed change adjusts the timing to account for both mailing and electronic transmission.

In December 2022, North Dakota's early childhood licensing process transitioned to the new Child Care Licensing (CCL) platform. The CCL gives child care providers the ability to more easily update information needed to support licensure. It also provides a streamlined means of communicating information between licensing specialists and providers, including communication related to corrective actions or sanctions. When child care providers establish their account in CCL they have the ability to indicate if they wish to receive communication via an email address they provide to us. CCL then provides a log of all communication that is sent via email, for easier reference by the provider and the licensing staff. The changes proposed in Senate Bill 2104 will help facilitate the use of the communication practices that are now possible with the implementation of CCL.

Sections 11 and 12. The proposed changes in Sections 11 and 12 of this Bill amend 50-11.1-07.3 and 50-11.1-07.4 of the North Dakota Century Code to remove reference to the Department's "authorized agent" and adds an opportunity to utilize mail or "electronic mail" for notices of noncompliance with correction orders.

Section 13. The proposed changes in Section 13 of this Bill amend section 50-11.1-07.5 of the North Dakota Century Code to remove reference to "authorized agent" of the Department, replace "program" and "facility" with "licensee" or "holder of a self-declaration", and update delivery of required notices via mail or electronic mail, including adjustments to timing of notices to account for both mail and electronic delivery.

Section 14. The changes proposed in Section 14 of this Bill amend 50-11.1-07.6 of North Dakota Century Code to adjust the timing and acceptable methods of delivery of notices of noncompliance to account for both electronic and mail, replaces "program" with "licensee", and to remove reference to "authorized agent".

Section 15. The proposed changes in Section 15 of this Bill amend section 50-11.1-07.8 of the North Dakota Century Code. In subsection 1 "operator" is either removed or replaced with the more inclusive term "staff", and "services required determination" is replaced with "confirmed decision" in both subsections 1 and 3, as noted in previous sections.

In subsections 2 and 5, the proposed amendment adds "operator" to the list of people who are required to receive notice of child abuse and neglect as outlined in said subsection, and later removes reference to "operator" as the newly updated definition of "staff member" renders it redundant.

Section 16. The proposed changes in Section 16 of this Bill amend section 50-11.1-09 of the North Dakota Century Code by removing two references to "early childhood services" as its inclusion is rendered redundant by the new definition of "provider".

Section 17. The proposed changes in Section 17 of this Bill amend section 50-11.1-11.1 of the North Dakota Century Code to align state law with the requirement outlined in the federal Child Care Development

Fund. The proposed change adds "nonprofit" as a modifier to "private entity" and makes consistent reference to "public or private nonprofit entity or the department" throughout the section.

The proposed changes to subsections 3, 4, 5, 6, and 7 would permit a public or private nonprofit entity or the Department to provide early childhood services resources and referral.

Subsections 5 and 7 remove details of the nature of service to be included in a child care resource and referral as this is defined in contract and the state Child Care Development Fund plan.

Section 18. The proposed changes in Section 18 of this Bill amend section 50-11.1-12 of the North Dakota Century Code by replacing "program" with "licensee" and removing reference to the Department's "authorized agent".

Section 19. The proposed changes in Section 19 of this Bill amend section 50-11.1-14 of the North Dakota Century Code replacing "distance" with "various" when describing learning formats and to remove reference to the Department's "authorized agent".

Section 20. The proposed changes in Section 20 of this Bill amend section 50-11.1-14.1 of the North Dakota Century Code to update language. In subsection 2 the proposed amendment replaces "facilities" with "programs" as it is a defined term. Subsection 3 is amended to add "quality" and "sustainable operations" as part of the purpose of child care capacity supports and incentives. Subdivisions b and c of subsection 3 replace "grants" with "direct payments" to allow for more streamlined delivery of assistance.

Subsection 5 exempts the programs outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 21. The proposed changes in Section 21 of this Bill amend section 50-11.1-15 of the North Dakota Century Code, increasing the reimbursement rate for Early Childhood Advisory Committee members, all of whom are providers of early childhood services, from one hundred dollars to two hundred dollars if they have to hire a substitute to enable their participation in meetings. The phrase "early childhood service" is removed in two locations as the updated definition of "provider" renders it redundant.

Section 22. The proposed changes in Section 22 of this Bill amend section 50-11.1-16 of the North Dakota Century Code by removing reference to the Department's "authorized agent" and a redundant reference to "early childhood services".

Section 23. The proposed changes in Section 23 of this Bill amend section 50-11.1-17 of the North Dakota Century Code to include several language updates as outlined in previous sections, including removal of reference to the Department's "authorized agent", "finding of services required", and a replacement of "program" with "holder of a self-declaration".

Section 24. The proposed changes in Section 24 of this Bill amend section 50-11.1-18 of the North Dakota Century Code. The proposed changes rename the program from "Early childhood services inclusion support services and grant program" to "Early childhood inclusion support services program".

Subsection 1 removes reference to the department of commerce as that agency is no longer involved in administering early childhood programs and grants and references the updated program name. The proposed amendment also adds "special needs" to the description of children for whom provision of care is a consideration of eligibility. Throughout the rest of this section, the consistent reference is "children

with disabilities, special needs, or developmental delays". Subsection 1 is also amended to clarify that the program offers both "direct payments and technical assistance".

Subsections 2 and 4 remove redundant references to "early childhood services" when referring to "providers", makes consistent the description of care provided to children, as noted in subsection 1, and replaces "business" with "premises" as a defined term. Subsection 4 also removes providers who are not yet licensed from being eligible to participate in the program until they are licensed.

Subsections 3 is proposed to be removed as it is not used in administration of this program.

Subsection 5 is proposed to be removed as it is redundant to requirements outlined in subsection 1.

Subsection 6 (re-numbered as subsection 4) defines the term "special needs", as referenced in this section, and adds "disability-related services and supports". Newly numbered subsection 6 exempts the program outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 25. The proposed changes in Section 25 of this Bill amend section 50-11.1-19 of the North Dakota Century Code by replacing "a facility licensed" with "an early childhood program" as a defined term.

Section 26. The proposed changes in Section 26 of this Bill amend section 50-11.1-22 of the North Dakota Century Code, renaming the section to "best in class program".

Subsection 1 removes "four-year-old" as a modifier to "program", to align to the updated definition of "four-year-old program" outlined in section 1 of this Bill and refers to an application for the "best in class program", removing "four-year-old experiences grant" as a modifier.

To continue to enable the best in class program to serve both small and large size programs, the proposed amendment to subsection 1 removes specific reference to dollar amounts and instead references "program characteristics as established by the department". Subdivisions b and c of subsection 1 and subsection 2 replace "grant funds" with "awarded funds" and "grant agreement" with "an agreement", to better align to definitions included in state procurement law. Subsection 3 exempts the program outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 27. The proposed changes in Section 27 of this Bill amend section 50-11.1-23 of the North Dakota Century Code related to eligibility for the best in class program.

Subsection 1 includes updated language that assures all intended provider types are eligible to apply for a best in class program award, consistent with the updated definition of "four-year-old program" described in Section 1 of this Bill. Subdivision e of subsection 1 puts into law quality expectations for various types of providers. Subdivision h of subsection 1 clarifies that an awarded program will operate in compliance with program requirements as established by the Department.

Subsection 2 replaces "grants" with "funds" and refers to approved "applicants" in alignment with changes proposed in Section 26 of this Bill. Subsection 3 removes the word "grant" and replaces reference to "approved four-year-old program" with "an awarded program", and replaces "best in class four-year-old experiences grant program" with "best in class program". Subsection 4 exempts the program outlined in this section from procurement to enable more streamlined delivery to early childhood providers.

Section 28. The proposed changes in Section 28 of this Bill amend section 50-11.1-24 of the North Dakota Century Code by removing

reference to “grant” as a modifier to “program” and replacing “grants” with “direct payments” or “awarded funds” as appropriate. The proposed changes also clarify that awarded best in class programs must comply with both data collection and “program evaluation” requirements established by the Department.

Section 29. The proposed changes in Section 29 of this Bill amend section 50-11.1-26 of the North Dakota Century Code by removing a redundant reference to “early childhood services”.

Section 30. The proposed changes in Section 30 of this Bill amend section 50-25.11-11 of the North Dakota Century Code to add consistent reference to the notification requirements outlined in the early childhood chapter (50-11.1-07.8). The proposed change adds “upon the conclusion and disposition of a child abuse and neglect assessment for which a determination of confirmed decision if found”.

This concludes my testimony. I would be happy to try to answer any questions the committee may have.