

SEXUAL ABUSE - PREVENTION AND TREATMENT - BACKGROUND MEMORANDUM

Senate Concurrent Resolution No. 4025 (attached as an appendix) directs the Legislative Council to study the effects of sexual abuse on child victims, strategies to assist child victims and the parents of child victims, the use and effectiveness of the mandatory reporting law, effective deterrents, and the need for training of professionals, public awareness initiatives, and training of school personnel in the recognition of victims and in prevention activities. In short, this study relates to the prevention and treatment of child sexual abuse.

INTRODUCTION

In 1993, the highest level of child sexual abuse was in Alaska. Alaska had seven cases per 1,000 children in the population. The state with the lowest number of cases per 1,000 children in the population was New Jersey with 0.7 cases. The national average was two cases per 1,000 children in the population. North Dakota was slightly over the national average at a rate of approximately 2.2 cases per 1,000 children in the population.

In 1995, there were 383 reported cases of caretaker child sexual abuse made to the Department of Human Services. Of the 383 reports, 123 resulted in a finding that there was a probable cause of abuse. As of January 1, 1996, the term "probable cause" is no longer used and has been replaced with the term "services required." In addition to the 383 reports of caretaker child sexual abuse, the department referred 234 cases of noncaretaker child sexual abuse to law enforcement.

Sexual abuse may cause behavioral problems in children. Some behavioral problems that are common to people who were sexually abused children include interpersonal problems, problems with sexual intimacy, substance abuse and addiction, self-mutilation, eating problems, anxiety, low self-esteem and anger. In addition, children that have been sexually abused commonly suffer from psychological disorders that include borderline personality disorder, dissociate identity disorder, posttraumatic stress disorder, and clinical depression. In fact, sexually abused children are four times more likely than nonabused children to become severely depressed at some time in their lives. In addition, child sexual abuse may be a significant factor in delinquency. In a recent study of juvenile felons in Ohio, 75 percent of

the girls and 50 percent of the boys had been sexually assaulted.

PROTECTION OF CHILD SEXUAL ABUSE VICTIMS

There are two systems that are active in responding to a report of child sexual abuse--the human service system and the law enforcement system. The first step in activating these systems is a report of child sexual abuse.

Under North Dakota Century Code (NDCC) Section 50-25.1-03, any person having reasonable cause to suspect child sexual abuse may report to the Department of Human Services. Under the same statute, certain persons are required to report child sexual abuse to the department. These persons include:

Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, school-teacher or administrator, school counselor, addiction counselor, social worker, day care center or any other child care worker, police or law enforcement officer, or member of the clergy

The report must be based upon knowledge or reasonable cause for suspicion. Under NDCC Section 50-25.1-13, a person required to report who willfully fails to do so is guilty of a Class B misdemeanor.

Under NDCC Section 50-25.1-02(4), a report may be made to the department's designee. Under North Dakota Administrative Code (NDAC) Section 75-03-19-02, the department's designees for the purposes of receiving reports of child abuse and neglect are the county social service boards. As a matter of practice, if the department receives a report directly, it refers the report to the county social service board with jurisdiction over the child in question.

Under NDCC Section 50-25.1-05, immediately upon the report of child sexual abuse, the department will conduct an assessment of the report. Under NDAC Section 75-03-19-02, the county social service boards are the department's designee for the purpose of conducting assessments. If a crime involving a sexual offense is alleged, the department must notify an appropriate law enforcement agency. The department must coordinate its assessment with the law enforcement agency's investigation.

In these proceedings, the department provides child protective services when a person responsible for the child's welfare is the person sexually abusing a child. Under NDCC Section 50-25.1-05.3, if the department determines that a report of child sexual abuse is of a stranger sexually abusing a child, the department does not have jurisdiction for protective services and may refer the report to law enforcement.

If the report of child sexual abuse is of a person responsible for the child's welfare sexually abusing a child, then the department will go on to the next step-the determination. The department may make three possible determinations based upon the assessment. The department may determine that no services are required, in which case the department will take no further action. The department may determine that services are recommended, in which case services will be offered by the department and no formal action will be taken. Under NDCC Sections 50-25.1-05.2 and 50-25.1-06, if the department determines that services are required, the department will report its determination to the juvenile court and will begin formal child protective services.

Under NDCC Section 50-25.1-02(9), protective services include a social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessments, monitoring service delivery, and direct services. Under NDCC Section 50-25.1-06, upon a finding of services required, the department shall provide protective services for the abused or neglected child and other children under the same care. In addition, the department shall provide other appropriate social services to the caregiver of the abused or neglected child.

The department does not have the power to force protective services. Under NDCC Section 27-20-20, to force protective services, a petition must be brought in juvenile court alleging that the child is deprived. Under NDCC Section 27-20-02, a deprived child is a child who is without proper parental care. Under NDCC Section 27-20-29, the burden of proof in determining whether a child is deprived is the clear and convincing standard.

There is protection for victims and witnesses in child sexual abuse cases as they go through the criminal justice system. North Dakota Century Code Chapter 12.1-34 provides the baseline protections for victims of and witnesses to crimes. This chapter provides for the release of information to the victims and witnesses on the status of the investigation, charges filed, pretrial release, all court proceedings, and available services. The chapter also provides for the return of property, a waiting area, protection of identifying information, and the right to be present at proceedings. There are also provisions for involvement in postconviction proceedings. Protections are mainly effectuated by the state's attorney.

North Dakota Century Code Chapter 12.1-35 provides additional protections for children. This chapter addresses the unique problems encountered by victims and witnesses who are minors. The state's attorneys are encouraged to facilitate the court's, the child's, and the family's understanding of the special circumstances that surround the testimony of a minor. The 1997 Legislative Assembly passed House Bill No. 1049, which added the requirement that the court protect a child victim or witness from psychological damage or lengthy interrogation, testimony, or discovery proceedings.

TREATMENT OF CHILD SEXUAL ABUSE VICTIMS

As for the availability of services, the Child Welfare League compiled the following information by regions in this state. Region I includes Divide, McKenzie, and Williams counties. Region II includes Bottineau, Burke, McHenry, Mountrail, Pierce, Renville, and Ward counties. Region III includes Benson, Cavalier, Eddy, Ramsey, Rolette, and Towner counties. Region IV includes Grand Forks, Nelson, Pembina, and Walsh counties. Region V includes Cass, Ransom, Richland, Sargent, Steele, and Traill counties. Region VI includes Barnes, Dickey, Foster, Griggs, LaMoure, Logan, McIntosh, Stutsman, and Wells counties. Region VII includes Burleigh, Emmons, Grant, Kidder, McLean, Mercer, Morton, Oliver, Sheridan, and Sioux counties. Region VIII includes Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope, and Stark counties.

| Type of Child Sexual Abuse Assessment/Treatment | Region 1 | Region 2 | Region 3 | Region 4 | Region 5 | Region 6 | Region 7 | Region 8 |
|---|----------|----------|----------|----------|----------|----------|----------|----------|
| Child Victim | | | | | | | | |
| Assessment | X | X | X | X | X + | X | X + | X |
| Individual treatment | X | X | X | X + | X | X | X | |
| Group treatment | | X | ** | X | X | X | X | |
| Adult Survivor | | | | | | | | |
| Individual treatment | X | X | X | X | X + | X | X | X |
| Group treatment | X | | X | X | X + | X | X | X |

| Type of Child Sexual Abuse Assessment/Treatment | Region 1 | Region 2 | Region 3 | Region 4 | Region 5 | Region 6 | Region 7 | Region 8 |
|---|----------|----------|----------|----------|----------|----------|----------|----------|
| Nonoffending Significant Other | | | | | | | | |
| Individual treatment | X | X | X | X | X + | X | X | X |
| Group treatment | | | X | X | X + | X | X | |
| Couple/Family Treatment | X | X | X | X | X + | X | X | X |
| Adult Offender | | | | | | | | |
| Assessment | | | X | X | X + | X | X + | X |
| Individual treatment | X | X | * | X | X | X | X | X |
| Group treatment | | | X | X | X | X | X | X |
| Adolescent Offender | | | | | | | | |
| Assessment | | X | X | X | X | X | X + | X |
| Individual treatment | X | X | * | X | X | X | X | X |
| Group treatment | | X | X | X | X | X | X | X |

X = Service available + = Waiting period for more than two weeks * = Minimally available ** = Periodically available

RECENT LEGISLATIVE HISTORY

In 1993, the Legislative Assembly provided \$80,000 to the Legislative Council for the purpose of hiring a consultant to assist with an interim study of child and youth services. The Budget Committee on Youth Services was assigned this study and contracted with the Child Welfare League of America, Inc., to assist in its study of children's services in North Dakota. A portion of the final report of the Child Welfare League related to improving the system of addressing child sexual abuse in North Dakota. This portion of the report made 27 recommendations on the reporting of child abuse, the investigation of child abuse reports, juvenile court intervention into child sexual abuse cases, the criminal prosecution of child sexual abuse offenses, the disposition of criminal cases involving child sexual abuse offenses, and the assessment and treatment of child sexual abuse. The areas of reporting, assessment, and treatment are common to the areas of study directed by this study.

The 1993-94 interim Budget Committee on Youth Services recommended Senate Bill Nos. 2039 and 2045. Senate Bill No. 2039 did not pass and would have, among other things, expanded the number of mandated reporters for child abuse neglect; required training for mandated child abuse and neglect reporters; required training for professionals involved in treating child sexual abuse victims, perpetrators, and their families; required child sexual abuse case training for attorneys; required the Department of Human Services to provide, in each region, child sexual abuse assessment and treatment services for victims, perpetrators, and their families; and required the Department of Human Services to develop a state-wide program to increase public awareness of child

sexual abuse and to encourage the reporting of suspected abuse.

Senate Bill No. 2045 did not pass and would have, among other things, replaced the child protection team with a state child protection committee that would have been responsible for developing model protocols for use by persons involved in child sexual abuse reports and cases, coordinating training for persons involved in child sexual abuse reports and cases, and providing assistance to local child protection teams. In addition, the bill would have provided that assistant attorneys general provide assistance and training in child sexual abuse cases.

SUGGESTED STUDY APPROACH

The committee may wish to receive testimony from the Department of Human Services, the Alliance for Sexual Abuse Prevention and Treatment, and the Child Fatality Review Panel. The Child Fatality Review Panel reviews some of the same areas of subject matter as this committee is to review, including the evaluation of the impact of specific risk factors (substance abuse, domestic violence, and prior child abuse) on child deaths, interagency services to high-risk families, and the use of the media to educate the public about child abuse prevention.

The Alliance is a statewide coalition sponsored by the Division of Children and Family Services of the Department of Human Services and the Village Family Service Center. The Alliance offers consultation, training, and support for individuals and organizations working with sexual victimization. The Alliance provides education and training to regional centers across the state, law enforcement, and mental health providers. The Alliance encourages interdisciplinary cooperation through its multidisciplinary task force.

This task force is made up of members of the law enforcement community, criminal court judges, civil court judges, prosecuting attorneys, defense attorneys, advocates, health professionals, mental health professionals, child protective service agencies, individuals experienced in working with children with disabilities, parent groups, and other professionals. The Alliance has a broad base of participation and appears to be a useful source of information on child sexual abuse. In particular, testimony from any of the preceding groups would provide information for the portions of this study that relate to the mandatory reporting law, the training of professionals and school personnel, a public awareness initiative, and strategies to assist child victims and their parents. In

addition, the committee may wish to review the recommendations of the Child Welfare League.

This study directs a review of the effects of sexual abuse on children. The committee may wish to receive testimony from those impacted by child sexual abuse, especially from the parents of child sexual abuse victims. The committee may wish to receive testimony from treatment providers, both governmental and private, and review treatment options and availability of treatment options in this state. The portion of this study relating to the review of effective deterrents will be addressed as part of the other studies that have been assigned to this committee.

ATTACH:1

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

**SENATE CONCURRENT RESOLUTION NO. 4025
(Senators Nalewaja, Cook, C. Nelson, Robinson)
(Representatives Grande, Kliniske)**

A concurrent resolution directing the Legislative Council to study the effects of sexual abuse on child victims, strategies to assist child victims and the parents of child victims, the use and effectiveness of the mandatory reporting law, effective deterrents, and the need for training of professionals, public awareness initiatives, and training of school personnel in the recognition of victims and in prevention activities.

WHEREAS, based upon a survey of parents, a December 1995 Gallup poll estimated that 23 percent of those parents as children were sexually abused by an adult or older child and that 1,300,000 children in the United States have been forced to touch an adult or older child in a sexual manner, have been forcibly touched by an adult or older child in a sexual manner, or have been forced to have sex with an adult or older child; and

WHEREAS, in this state in fiscal year 1995, 380 reports of suspected child sexual abuse by a caretaker were reported to the Department of Human Services, and in 122 of those reports a determination was made that there was probable cause to believe child sexual abuse was indicated, and an additional 234 reports of suspected noncaretaker child sexual abuse were made to the department and were referred to law enforcement agencies; and

WHEREAS, the Department of Corrections and Rehabilitation manages over 300 adult sex offenders and research about adult sex offenders has revealed that more than one-half offended as children and that treatment can stop many of these offenders from reoffending; and

WHEREAS, North Dakota state law provides for mandatory reporting of suspected abuse; and

WHEREAS, parents of a sexually abused child may be emotionally traumatized by their child's victimization and may be in need of support including a parents' network; and

WHEREAS, sexually abused children may suffer from physical, mental, and emotional deterioration, low self-esteem, poor academic progress, inappropriate behaviors, and suicidal tendencies; and

WHEREAS, the child protection services program through the Alliance for Sexual Abuse Prevention and Treatment promotes public awareness of child abuse issues and the prevention of child sexual abuse, and also provides training for professionals; and

WHEREAS, the Child Fatality Review Panel monitors unexpected child deaths and recommends changes in policy, practices, and law to prevent child deaths; and

WHEREAS, evidence suggests that efforts to prevent abuse and to promptly and appropriately treat victims and offenders will save taxpayers millions of dollars over time and will save children from trauma and lifelong suffering;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council study the effects of sexual abuse on child victims, strategies to assist child victims and the parents of child victims, the use and effectiveness of the mandatory reporting law, effective deterrents, and the need for training of professionals, public awareness initiatives, and training of school personnel in the recognition of victims and in prevention activities; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 20, 1997