

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2384

2001 SENATE JUDICIARY

SB 2384

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2384

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 20 FEBRUARY 2001

Tape Number	Side A	Side B	Meter #
1	X		0-52.2
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2384: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 50-25.1-05 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO NOTIFICATION OF CHILD ABUSE AND NEGLECT ASSESSMENTS.

**Senator Watne**, district 5, supports the bill. (testimony attached)

**Susan Beehler**, representing R-Kids, supports the bill. (testimony attached)

**Senator Dever**, with the research that has been done, who commits the most sexual abuse?

**Susan Beehler**, stats say it is the parents first.

**Senator Trenbeath**, I would like to hear that man's testimony in person. I don't like hearing written testimony from someone who doesn't appear before the committee.

**Susan Beehler**, he said you could call him.

**Gladys Cairns**, administrator of child protection for the Department of Human Services.  
(testimony attached)

**Senator Traynor**, who are the people you identify in this?

**Gladys Cairns**, parents.

**Senator Watne**, do you think Susan's recommendation should be put in the bill?

**Gladys Cairns**, I think it is up to the committee.

**Senator Traynor**, the affidavit in the mail, is a better system than mail.

**John Olson**, representing peace officers and states attorneys, only concern with the bill is the assessment in conjunction with an investigation be recognized and a report not be made until an investigation be made. Asked to adopt Senator Watne's amendment.

**Bonnie Palecek**, representing abused women services. Concern about children. If it would go from 4,000 assessments to 700 assessments. Issues of retaliation if there would be identification. A concern is a logistical concern of exemption how social services would work. Has proposed amendments.

**Margarent Kottre**, with R-Kids, they are for this bill. Would like to see this bill be passed for children.

**Senator Traynor**, closed the hearing on SB 2384.

**SENATOR WATNE MOTIONED TO PASS ALL AMENDMENTS AND HOG HOUSE THE BILL. SECONDED BY SENATOR BERCIER. VOTE INDICATED 6 YEAS, AND 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR WATNE MOTIONED TO PASS THE BILL, SECONDED BY SENTOR BERCIER. VOTE INDICATED 6 YEAS, 0 NAYS, AND 1 ABSENT AND NOT VOTING.**

**FISCAL NOTE**  
Requested by Legislative Council  
6/21/2001

Bill/Resolution No.:

Amendment to: SB 2384

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$476			\$476		

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill requires that upon the completion of a child abuse and neglect assessment and when a decision is made that services **are required**, the Department of Human Services shall make a good-faith effort to provide written notice of the decision to each parent or the guardian of the child an assessment was conducted on. The county is designated by the Department to be the agent in the delivery of child abuse and neglect assessment services. Thus the bill would have a fiscal impact on the counties. The county currently provides written notification of the assessment results to the subjects of an investigation. If this bill passes, the Department will require the county social service office to use an affidavit process in notifying any non-custodial parent of said child's assessment requiring services.

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

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

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

As the county social service office agencies are serving as designees of the Department of Human Services when they conduct a child abuse and neglect assessment, the fiscal impact will be on the counties.

It is estimated that about 700 cases each year require services. The Department does not have a system to determine if said child of the assessment has a non-custodial parent. Therefore, at most, 700 good-faith effort written notifications will need to be sent each year at a current charge of a standard letter - 34 cents. For the biennium, the cost is estimated to be \$476.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	02/23/2001

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/29/2001

Bill/Resolution No.: SB 2384

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			\$47,266			\$47,266		

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill requires that upon the completion of a child abuse and neglect assessment, the Department of Human Services send a certified letter to each parent or the guardian of the child an assessment was conducted on. The county is designated by the Department to be the agent in the delivery of child abuse and neglect assessment services. If this bill passes, the Department of Human Services will require the county social service office to send the certified letter as part of the assessment process. Thus, the fiscal impact would be on the county social service offices.

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

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

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

As the county social service agencies are serving as designees of the Department of Human Services when they conduct a child abuse and neglect assessment, the fiscal impact will be on the counties.

It is estimated that a total of 6,319 certified letters would need to be sent each year at a current charge of \$3.74 per letter, or \$23,633 per year. For a biennium, the cost is estimated to be \$47,266.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	02/01/2001



10760.0101  
Title.

Prepared by the Legislative Council staff for  
Senator Watne  
February 5, 2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2384

Page 1, line 19, replace "Upon" with "Unless the information is confidential under section  
44-04-18.7, upon"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2384

Page 1, line 1, after "A Bill" replace the remainder of the bill with "for an Act to amend and reenact section 50-25.1-05.1 of the North Dakota Century Code, relating to ~~how a~~ <sup>the</sup> determination is made that services are required ~~for the protection and treatment of an abused or neglected child~~ <sup>for the protection and treatment of an abused or neglected child</sup>

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

**SECTION 1. AMENDMENT.** Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-05.1. Services required - How determined.** ~~Upon~~ Unless the information is confidential under section 44-04-18.7, upon completion of the assessment of the initial report of child abuse or neglect, a decision must be made whether services are required to provide for the protection and treatment of an abused or neglected child.

1. This determination is the responsibility of the department.
2. A decision that services are required may not be made where the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child where the child's life or safety requires it or the child is subject to harm or threatened harm.
3. When a decision that services are required to provide for the protection and treatment of an abused or neglected child is made, the department shall make a good faith effort to provide written notice of the decision to persons as identified in section 50-25.1-11(9). The department shall consider any known domestic violence when providing notification under this section.

*subSection 9 of*

Renumber accordingly

Date: 1/10/01  
Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2394**

Senate      Judiciary      Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number

Action Taken	Pass All Amendments proposed before Committee. Mold them together.
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Motion Made By Watne Seconded By Bercier.

[illegible]

Total (Yes) 6 No 0

Absent

### Floor Assignment

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

Date: 2/20/01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2384

Senate Judiciary Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken D. Pass as Amad.

Motion Made By Watne Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X.		Bercier, D.	X	
Watne, D. Vice Chairman	X.		Nelson, C.		
Dever, D.	X.				
Lyson, S.	X.				
Trenbeath, T.	X.				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Watne

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

**REPORT OF STANDING COMMITTEE**

**SB 2384: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2384 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-25.1-05.1 of the North Dakota Century Code, relating to the determination of when services are required for the protection and treatment of an abused or neglected child.

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

**SECTION 1. AMENDMENT.** Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-05.1. Services required - How determined.**~~Upon~~ Unless the information is confidential under section 44-04-18.7, upon completion of the assessment of the initial report of child abuse or neglect, a decision must be made whether services are required to provide for the protection and treatment of an abused or neglected child.

1. This determination is the responsibility of the department.
2. A decision that services are required may not be made where the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child where the child's life or safety requires it or the child is subject to harm or threatened harm.
3. When a decision is made that services are required to provide for the protection and treatment of an abused or neglected child, the department shall make a good-faith effort to provide written notice of the decision to persons identified in subsection 9 of section 50-25.1-11. The department shall consider any known domestic violence when providing notification under this section."

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2384

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		1479 to 6220
TAPE I		x	01 to 481
Committee Clerk Signature <i>Joan Davis</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2384. Relating to the determination of when services are required for the protection and treatment of an abused or neglected child.

Senator Watne: District 5 (see attached testimony). She had an amendment to present.

Rep Mahoney: You indicated that you were concerned about the non custodial parent. That subsection says a parent or a legally appointed guardian of child who is suspected of being or having been abused or neglected. So it would seem it would not cover.

Senator Watne: Under current law, this is on the penalty section of abuse and neglect.

Rep Mahoney: I'm looking at the engrossed Senate bill on the second to the last line, where it refers to the notice to be given to persons identified in sub section nine of section 50-25.1-11. I am assuming that you want the notice to go to the non custodial parent as well as guardian.

Senator Watne: Right.

Rep Mahoney: We may need to take a look at that to assure that it does what you want.

Senator Watne: OK

Rep Mahoney: We can take a look at that later.

Senator Watne: The intent is to notify the non custodial parent. Also on the criminal penalty section to not only look at parent or guardian but other adult people who are in the home who should be charged.

Chairman DeKrey: If there are no further questions, thank you for appearing.

Rep Mahoney: You are talking about the states attorney, you are talking about the States Attorney Association.

Senator Watne: No, I am talking about my states attorney and he has cleared it with other states attorneys.

Gladys Cairns: administrator of child protection for the Department of Human Services, (see attached testimony) (amendment attached).

Rep Mahoney: Under current law requires that all reports must be made available to - that was not getting notification to the non custodial parent. I am wondering just how this will change the law.

Gladys Cairns: What happened was a non custodial parent was not notified, this will remedy that situation. We believe that in a majority of cases there is notification, but this will force us to have more specific policy written.

Chairman DeKrey: If there are no questions, thank you for appearing.

John Olson: States Attorney Association, explains their amendments to the Senate bill. Looking at the engrossed bill, it seems to confuse everything. So I think we have to go back to the start and determine what we where we want to go. We want to make sure that the parent or non custodial parent need not be notified pending an investigation, because sometime there is a focus



on those people in the investigation. That is where we are today. As far as the other amendment with adult household members, I think that just makes sense to add those in there.

Susan Beehler: R-KIDS lobbyist (see attached testimony) also read into testimony an anonymous letter is support of her testimony.

Rep Delmore: You have some allegations in here that are pretty strong, this is not a new issue to me, but I also know that sometimes allegations are not found to be true. In your statistics, do you take into account the difference of someone allegedly doing this and someone who really is. We all know where custody is a battle, people are very angry at each other, that on both sides those allegations can come forward. Where does that play in this sort of thing.

Susan Beehler: I am not sure, but I guess that I would like the department to keep an open mind about it. Goes on to explain her example.

Rep Delmore: Is he on the registration list, the sexual offenders registration list. I understand your point, we need to take a look at that too.

Susan Beehler: I will give you the report and you can decide if this is a serious offense or not. Yes, allegations are strong but the point of this is to protect the child and the non custodial parent has the right to know that abuse has occurred.

Rep Mahoney: As a States Attorney I work with social services, and there are two sides to every story. I am a little defensive of the Social Services people, because when allegations are made, one side or the other is going to be mad at Social Services. Looking at the bill, as I look at it. I am not sure that it will take care of your situation. He goes on to explain.

Susan Beehler: You are correct that they must be made available and they are made available, but you have to know as a parent to go and ask for them. Sometimes when services are required there is not necessarily court hearing and there is not a lot of follow-up.

Rep Mahoney: What you are looking for is two things, one would be that the information must be given rather than be made available and the other would be not just when services are required but when there is any notices or reports of abuse or neglect.

Susan Beehler: Not any report because any report would be something that they have determined would be unfair. Services recommended would be where they have identified risk factors. Then there could be intervention on the other parents behalf.

Rep Mahoney: Divorce gets ugly, and the judge usually err on the side of the kids. You want that the information must be reported to the non custodial parent. As far as the services required part of it, do you want to broaden it with an amendment.

Susan Beehler: Right, with services recommended.

TAPE I SIDE B

Susan Beehler continues, talks about visitation and communication. Wasn't until the abuse was disclosed that the other parent wanted custody, but didn't get custody. She went on to explain the circumstances and the outcome of the custody issue.

Chairman DeKrey: If there are no further questions, thank you for appearing.

Margaret Kottre: lobbyist R-KIDS, what we want with this bill is not a report, but if there is a required or recommended services that the non custodial parent be notified.

Rep Disrud: Gives an example and then asks if there exceptions.

Page 5  
House Judiciary Committee  
Bill/Resolution Number SB 2384  
Hearing Date 03-12-01

Margaret Kottre: The exceptions were discussed on the Senate side, if a non custodial parent is in review, the custodial parent is always notified. It's the other way around that doesn't work. She went on to state the exception and the reasons why. One reason is a restraining order.

Rep Disrud: Only in the instance of a restraining order.

Margaret Kottre: Yes.

Chairman DeKrey: If there are no further questions thank you for appearing. Anyone else wishing to testify in support, neutral or opposition. We will close the hearing on SB 2384.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384b

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-13-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	5740 to 6236
Committee Clerk Signature <i>Joan Deans</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2384.

DISCUSSION

Gladys Cairns came to the committee to explain the amendments. These are Senator Watne's amendments. Rep Mahoney offered to draft the amendments in the proper form. The bill was tabled until Wednesday morning.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384c

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-14-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		3421 to 3535
TAPE I		x	01 to 536
Committee Clerk Signature <i>Joan Delmore</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2384.

DISCUSSION

Rep Mahoney: I have amendments for this bill, but they are at my desk.

Chairman DeKrey: We have to come back this afternoon, bring the amendments then.

TAPE I SIDE B

Chairman DeKrey called the committee back to order on SB 2384.

Rep Mahoney: explains the amendments. He then moved the amendment, seconded by rep Delmore.

DISCUSSION

Chairman DeKrey: We will have a voice vote on the amendment, motion carries. We have the bill before us, what are your wishes. Rep Delmore moved a DO PASS as amend, seconded by Rep Maragos. The DO PASS as amend motion on SB 2384 passes with 13 YES, 0 NO and 2 ABSENT. Carrier Rep Mahoney.

March 1, 2001

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2384

Page 1, line 1, replace "section" with "sections 14-09-22 and"

Page 1, line 2, after "to" insert "child abuse and neglect and to"

Page 1, after line 4, Insert:

**"SECTION 1. AMENDMENT.** Section 14-09-22 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**14-09-22. Abuse or neglect of child - Penalty.**

1. Except as provided in subsection 2, a parent, adult family or household member, guardian, or other custodian of any child who willfully commits any of the following offenses is guilty of a class C felony except if the victim of an offense under subdivision a is under the age of six years in which case the offense is a class B felony:
  - a. Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 or mental injury.
  - b. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.
  - c. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.
  - d. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under subdivision a of subsection 1 is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter."

Renumber accordingly

YR  
3/14/01  
1082

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL 2384 HOUSE JUDICIARY 03-15-01**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-25.1-11 of the North Dakota Century Code, relating to authorized disclosures of confidential records.

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

**SECTION 1. AMENDMENT.** Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-11. Confidentiality of records - Authorized disclosures.** All reports made under this chapter, as well as any other information obtained, are confidential and must be made available to:

1. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.
2. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information in order to determine whether to place ~~such~~ the child in protective custody.
3. Authorized staff of the department, appropriate county social service boards, and appropriate state and local child protection team members.
4. Any person who is the subject of a report; provided, however, that the identity of persons reporting under this chapter is protected.
5. Public officials and their authorized agents who require ~~such~~ the information in connection with the discharge of their official duties.
6. A court whenever ~~it~~ the court determines that the information is necessary for the determination of an issue before the court.
7. A person engaged in a bona fide research purpose; provided, however, that no information identifying the subjects of a report is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
8. A person who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.
9. Parents or a legally appointed guardian of a child who is suspected of being, or having been, abused or neglected, provided the identity of persons making reports or supplying information under this chapter is protected. Unless the information under section 44-04-18.7 is confidential, when a decision is made that services are required to provide for the protection and treatment of an abused or neglected child, the department shall make a good-faith effort to provide written notice of the decision to persons identified in this subsection. The department shall consider any known domestic violence when providing notification under this section.





Date: 03-14-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SR-2384

House JUDICIARY Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number 10760.0202 .0300

Action Taken Do Pass As amended

Motion Made By Rep Delmore Seconded By Rep Maragos

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Mahoney

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

**REPORT OF STANDING COMMITTEE**

SB 2384, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2384 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-25.1-11 of the North Dakota Century Code, relating to authorized disclosures of confidential records.

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

**SECTION 1. AMENDMENT.** Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-11. Confidentiality of records - Authorized disclosures.** All reports made under this chapter, as well as any other information obtained, are confidential and must be made available to:

1. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.
2. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information in order to determine whether to place ~~such~~ the child in protective custody.
3. Authorized staff of the department, appropriate county social service boards, and appropriate state and local child protection team members.
4. Any person who is the subject of a report; provided, however, that the identity of persons reporting under this chapter is protected.
5. Public officials and their authorized agents who require ~~such~~ the information in connection with the discharge of their official duties.
6. A court whenever ~~it~~ the court determines that the information is necessary for the determination of an issue before the court.
7. A person engaged in a bona fide research purpose; provided, however, that no information identifying the subjects of a report is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
8. A person who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.
9. Parents or a legally appointed guardian of a child who is suspected of being, or having been, abused or neglected, provided the identity of persons making reports or supplying information under this chapter is protected. Unless the information under section 44-04-18.7 is confidential, when a decision is made that services are required to provide for the protection and treatment of an abused or neglected child, the department shall make a good-faith effort to provide written notice of the decision to

persons identified in this subsection. The department shall consider any known domestic violence when providing notification under this section."

Renumber accordingly

2001 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2384

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2384

That the House recede from its amendments as printed on page 855 of the Senate Journal and pages 932 and 933 of the House Journal and that Engrossed Senate Bill No. 2384 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 14-09-22 and 50-25.1-11 of the North Dakota Century Code, relating to child abuse and neglect and to authorized disclosures of confidential records.

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

**SECTION 1. AMENDMENT.** Section 14-09-22 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**14-09-22. Abuse or neglect of child - Penalty.**

1. Except as provided in subsection 2, a parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony except if the victim of an offense under subdivision a is under the age of six years in which case the offense is a class B felony:
  - a. Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 or mental injury.
  - b. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.
  - c. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.
  - d. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under subdivision a of subsection 1 is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.

**SECTION 2. AMENDMENT.** Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-11. Confidentiality of records - Authorized disclosures.** All reports made under this chapter, as well as any other information obtained, are confidential and must be made available to:

1. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.
2. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information in order to determine whether to place ~~such~~ the child in protective custody.
3. Authorized staff of the department, appropriate county social service boards, and appropriate state and local child protection team members.
4. Any person who is the subject of a report; provided, however, that the identity of persons reporting under this chapter is protected.
5. Public officials and their authorized agents who require ~~such~~ the information in connection with the discharge of their official duties.
6. A court whenever ~~it~~ the court determines that the information is necessary for the determination of an issue before the court.
7. A person engaged in a bona fide research purpose; provided, however, that no information identifying the subjects of a report is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
8. A person who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.
9. Parents or a legally appointed guardian of a child who is suspected of being, or having been, abused or neglected, provided the identity of persons making reports or supplying information under this chapter is protected. Unless the information is confidential under section 44-04-18.7, when a decision is made under section 50-25.1-05.1 that services are required to provide for the protection and treatment of an abused or neglected child, the department shall make a good-faith effort to provide written notice of the decision to persons identified in this subsection. The department shall consider any known domestic violence when providing notification under this section."

Renumber accordingly

Roll Call Vote #: 1

Senate	Committee
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or

Action Taken House Recede

Motion Made By Rep. Fairfield Seconded By Dwight.

[illegible]

Total (Yes) 6 No 0

Absent

## Floor Assignment

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2384, as engrossed:** Your conference committee (Sens. Watne, Lyson, C. Nelson and Reps. Wrangham, Brekke, Fairfield) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 855, adopt amendments as follows, and place SB 2384 on the Seventh order:

That the House recede from its amendments as printed on page 855 of the Senate Journal and pages 932 and 933 of the House Journal and that Engrossed Senate Bill No. 2384 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 14-09-22 and 50-25.1-11 of the North Dakota Century Code, relating to child abuse and neglect and to authorized disclosures of confidential records.

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

**SECTION 1. AMENDMENT.** Section 14-09-22 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**14-09-22. Abuse or neglect of child - Penalty.**

1. Except as provided in subsection 2, a parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony except if the victim of an offense under subdivision a is under the age of six years in which case the offense is a class B felony:
  - a. Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 or mental injury.
  - b. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.
  - c. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.
  - d. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under subdivision a of subsection 1 is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.

**SECTION 2. AMENDMENT.** Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:



**50-25.1-11. Confidentiality of records - Authorized disclosures.** All reports made under this chapter, as well as any other information obtained, are confidential and must be made available to:

1. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.
2. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information in order to determine whether to place ~~such~~ the child in protective custody.
3. Authorized staff of the department, appropriate county social service boards, and appropriate state and local child protection team members.
4. Any person who is the subject of a report; provided, however, that the identity of persons reporting under this chapter is protected.
5. Public officials and their authorized agents who require ~~such~~ the information in connection with the discharge of their official duties.
6. A court whenever ~~it~~ the court determines that the information is necessary for the determination of an issue before the court.
7. A person engaged in a bona fide research purpose; provided, however, that no information identifying the subjects of a report is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
8. A person who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.
9. Parents or a legally appointed guardian of a child who is suspected of being, or having been, abused or neglected, provided the identity of persons making reports or supplying information under this chapter is protected. Unless the information is confidential under section 44-04-18.7, when a decision is made under section 50-25.1-05.1 that services are required to provide for the protection and treatment of an abused or neglected child, the department shall make a good-faith effort to provide written notice of the decision to persons identified in this subsection. The department shall consider any known domestic violence when providing notification under this section."

Renumber accordingly

Engrossed SB 2384 was placed on the Seventh order of business on the calendar.

=====
REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420
=====

07398

Bill Number) 2374 (, as (re)engrossed):

Your Conference Committee

For the Senate:

S. Watne
S. Lyson
S. C. Nelson

For the House:

Rep. Wragham
Rep. Brekke
Rep. Fairfield

[X] recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
the (Senate/House) amendments on (SJ/HJ) page(s) 932 - 933

[ ] and place on the Seventh order.

[X] , adopt (further) amendments as follows, and place
2384 on the Seventh order:

[ ] having been unable to agree, recommends that the committee be discharged
and a new committee be appointed.

((Re)Engrossed) was placed on the Seventh order of business on the
calendar.

DATE: 03 / 27 / 01

CARRIER: Watne

LC NO. 10760 . 0203 of amendment

LC NO. 10760 . 0200 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

1) LC (2) LC (3) DESK (4) COMM.

2001 TESTIMONY

SB 2384

**Testimony SB 2384**

**Tuesday February 20, 2001 Judiciary Committee 9:00am  
Fort Lincoln room**

I am sharing my testimony anonymously to protect my children. I am hurt and really mad. I had the privilege to bring kids into this world and it is my responsibility to protect them. It should be my right.

On the first morning of a three-day weekend I read my daughter's stepfather was convicted of gross sexual imposition. I was devastated. That is how I found out about her sexual abuse in the paper.

8 months earlier social services had first knowledge of the abuse. I was not questioned at all about my daughter or informed of anything. Looking back my daughter gave no indication of anything happening. Because the ex started denying her visitation with me. The weekend it happened I was going to take her to church and my ex said she couldn't go with me. I believed she told her not to tell me.

One social service report indicates another of my daughters' had been molested but that was not charged out criminally or investigated to my knowledge, she wasn't believed.

How do you find out if the offender is complying with the terms of the probation? Judge Benny Graff wasn't sure a stiff penalty would do any good. The offenders' therapist said he was very low risk because this was his only offense, yet another daughter claims it happened to her, to her first. Does this guy have to take drug tests? He was ordered to stay out of bars but now he goes to them. Is he on supervised probation? He received four years probation. My ex is still married to him. He comes down from Fargo every Monday and Tuesday. Does she keep the girls away from him? What happens after 4 years the girls will still be in the home? Will their mother let him back into the home? As a non-custodial parent how can I protect them?

When one parent is not a good judge of character, not responsible in protecting the kids, by keeping them away from questionable people. It should be a non-custodial parents' right to be involved, to be notified, to protect the children.

If I could have found out right away I could have put my resources into protecting them, insuring their safety. Instead my resources were used by the ex to protect her husband and to hide the truth.

The bottom-line is: What statement has this made to the kids? The offender was protected first not the victim. He was in a position of trust. He betrayed it.

I am really disappointed in the system; it refers to non-custodial parents as "deadbeats". My ex makes more money then me, I pay support, buy the kids cars and insurance. Adding it all up it cost me \$500 an hour to see my kids and she brings a guy in that hurts my kids and I can't do anything about.



# NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



COMMITTEES  
Judiciary  
Vice Chairman  
Political Subdivisions

Senator Darlene Watne  
District 5  
270 28th Avenue SW  
Minot, ND 58701-7065

Chairman Traynor and Members of the Senate Judiciary:

SB 2384 comes about by tragic circumstances. A parent found out after the fact that her child had been sexually abused. That abuse was reported and investigated by our agencies, a determination was made that the abuse actually did take place, but the non-custodial parent was never informed.

If your child had a serious problem like this, don't you need to know?

This bill states that when an assessment such as this is completed, the parent or guardian of the child will be told that the assessment was conducted, what the outcome was of the assessment, and the recommendations made. It seemed very logical to me that such action would be taken, I assumed it would be taken, but it evidently has not been taken. This will assure that it will be done.

This bill has been drafted at the request of Susan Beehler with R-Kids and she will share with you her story of what precipitated that request.


Since this legislation was drafted, our Ward County State's Attorney Doug Mattson requested that an amendment be added. That amendment is attached to this testimony. Doug wanted to be sure that this bill would not infringe into an on-going investigation.

Also, after this legislation was drafted a couple of social worker friends in Minot, Linda Heilman and Mary Hermanson, expressed some concerns. A copy of their e-mail is attached herewith. And Gladys Cairns did some research and came up with a proposed amendment. Her e-mail and proposed amendment are attached herewith. I believe this amendment will satisfy the qualms of the social workers who are involved in such assessment procedures.

I'm sure you will listen to Susan and other witnesses and decide whether this bill should be passed in its present form or amended. Thank you.

Respectfully,

Darlene Watne

 Linda B. Heilman

02/06/2001 01:40 PM

To: Darlene C. Watne/NDLC/NoDak@NoDak

cc:

Subject: Senate Bill 2348

2-14

Darlene,

Mary Hermanson and I will be sending a letter opposing this bill due to a number of concerns. The concerns are not only the financial impact to the agencies but also how this might impact custody cases where the custodial parents information regarding referrals or services for themselves would be shared with their ex spouses, even in cases where there was found to be no neglect or abuse. We receive a large number of reports already, which are precipitated by ex spouses and attorneys for the sole purpose of custody.

Another concern is that the county staff do not always know the whereabouts of the non-custodial spouse. The amount of time this would take the county to research would require extra work for staff that are already overburdened.

If a case where court action, whether it be a foster care placement, petition for court ordered services, or a criminal action is initiated, then all efforts are made by the courts to make contact with the non-custodial parent including public notices in papers.

We are very concerned of the impact of this bill and welcome the opportunity to visit with you further.

Respectfully,

Linda Heilman  
Mary Hermanson

Gladys M. Cairns

02/07/2001 05:48 PM

To: susieqbee@prodigy.net

cc: Darlene C. Watne/NDLC/NoDak@NoDak, Paul M.  
Ronningen/DHS/NoDak@NoDak, Krista Andrews

Subject: SB2384

Hi Susan,

As I mentioned I did meet with the Director of the Children and Family Services Division to review the suggestions we discussed on SB2384.

I have attached my draft of a possible amendment for your review. I think this takes into account our discussion points:

- Notice would go to non-custodial parent when a decision is made that "Services are Required"
- We would provide written notice and as our procedural manual requires using an affidavit form when we mail the information. (doing away with the cost of the certified mail)
- Added "shall make a good faith effort to provide written notice..." because we didn't want to add the burden to the counties for extensive searches for the non-custodial parent. (the procedures for how we would carry this out would need to be added to our manual)
- During a legislative session in the 80's our law was changed so the department could provide information to parents who were not subjects of reports of suspected child abuse and neglect. We believe that this amendment provides for notification to the non-custodial parent of the decision of services required and if that parent wants additional information it can be requested.

I plan on leaving for a meeting in Fargo around noon tomorrow. Feel free to call if you have further discussion points.

Thanks!



sb2384.doc  
GMC



**50-25.1-05.1. Services required - How determined.** Upon completion of the assessment of the initial report of child abuse or neglect, a decision must be made whether services are required to provide for the protection and treatment of an abused or neglected child.

1. This determination is the responsibility of the department.
2. A decision that services are required may not be made where the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child where the child's life or safety requires it or the child is subject to harm or threatened harm.
3. When a decision that services are required to provide for the protection and treatment of an abused or neglected child is made, the department shall make a good faith effort to provide written notice of the decision to persons as identified in section 50-25.1-11(9).

## **Proposed Amendments to Senate Bill 2384**

Page 1, line 21, after "assessment." insert "The Department shall consider any known domestic violence when providing notification under this section."

**Senate Bill 2384**  
**Senate Judiciary Committee**  
**February 20, 2001**

Good morning Chairman Traynor and members of the Senate Judiciary Committee. My name is Gladys Cairns and I serve as the administrator of child protection for the Department of Human Services. I am here today to provide information concerning Senate Bill 2384 and to offer an amendment.

I am pleased that we had the opportunity to meet with the citizen who requested this amendment to the child abuse and neglect law. We discussed possible compromise, which could be offered to the Judiciary Committee.

The Department of Human Services offers the following points related to that discussion:

1. Currently an affidavit is signed and sent to the subject of a report of suspected child abuse or neglect, with the notification of a decision on whether services are required to provide for the protection and treatment of an abused or neglected child. Prior to this procedure being adopted we held discussion on the possibility that we should use certified mail. It was decided some years ago that it was not necessary to expend the funds for certified mail. A copy of our "Affidavit of Mailing" form is attached for your review.

*We believe this same form can be used for the notification required by SB2384 and the cost of the certified mail can be canceled. The fiscal note for this bill refers only to the cost of the certified mail.*

2. Currently the subject (the person named in a report of child abuse and neglect who is suspected as having abused or neglected a child) is notified about the decision of an assessment. We do not have procedures that call for an additional letter to be mailed to the other parent in a two-parent household. If both parents are subjects we generally send one letter, addressed to both parents.

*We believe one letter is sufficient when the assessment involves an intact family.*

3. We do not have procedures for routinely sending information to a non-custodial parent if a custodial parent is the subject of a report of suspected child abuse or neglect. If that parent seeks information we are able, by law, to respond. If the subject is the non-custodial parent, the custodial parent is most often aware due to the involvement for safety planning and the interviewing of the children. Our main concern is the requirement to notify the non-custodial parent when we are unaware of the name or address of the non-custodial parent.

We inquired into the possibility of requesting names and addresses from the Child Support Division of the Department. However federal rule prohibits that Division from providing child protection services with information for this purpose. (If however, a child is placed in foster care the information can be shared between the two Divisions). We may not be able to find a non-custodial parent. We do not want to be put in a position of expending time to find a non-custodial parent versus providing a family with protective services. We don't think we should expend the time to become "parent locators" when even the custodial parent is unaware of the whereabouts of a non-custodial parent. However, we do believe we should make and document an effort to notify each parent when we have made a decision that services are required to provide for the protection and treatment of an abused or neglected child.

*It is suggested that the department make a good faith effort to find and notify the parent. The effort would be documented in the case file. Procedures for this notification would be developed and training would be provided.*

The Department offers the attached amendment for consideration by the Senate Judiciary Committee.

I would be pleased to answer questions.



**AFFIDAVIT OF MAILING**  
ND DEPARTMENT OF HUMAN SERVICES/CFS  
SFN 499 (Rev. 02-2001)

**STATE OF NORTH DAKOTA  
DEPARTMENT OF HUMAN SERVICES**

**NOTIFICATION OF CHILD ABUSE  
OR NEGLECT CASE DECISION**

)  
)  
)  
)

**AFFIDAVIT OF MAILING**

.....

The undersigned certifies that a true and correct copy of the NOTIFICATION OF CASE DECISION was  
mailed, regular mail, on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ to:

Signature:

**DISTRIBUTION:** Original sent with notification of case decision, copy for case file.

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2384**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-25.1-05.1 of the North Dakota Century Code, relating to how a determination is made that services are required.

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

**SECTION 1. AMENDMENT.** Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-05.1. Services required - How determined.** Upon completion of the assessment of the initial report of child abuse or neglect, a decision must be made whether services are required to provide for the protection and treatment of an abused or neglected child.

1. This determination is the responsibility of the department.
2. A decision that services are required may not be made where the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child where the child's life or safety requires it or the child is subject to harm or threatened harm.
3. When a decision that services are required to provide for the protection and treatment of an abused or neglected child is made, the department shall make a good faith effort to provide written notice of the decision to persons as identified in section 50-25.1-11(9)."

Renumber accordingly

**Testimony SB 2384**

**Tuesday February 20, 2001 Judiciary Committee 9:00am  
Fort Lincoln room**

Good morning Chairman Senator Traynor and members of the Judiciary Committee,

My name is Susan Beehler, a working mom with 5 children, a custodial parent, a Girl Scout leader to two troops in Mandan, and training to become an advocate for AARC. I am an unpaid lobbyist for R-KIDS, Remembering Kids in Divorce Settlements.

This bill is very personal to me and difficult to give testimony on .

Children have been put into foster care without the other parent finding out until after the fact. Children are being abused, neglected and molested, the parents not being informed. Both parents need to know. If one parent is in denial, the reality is the child can be put into dangerous situations because the other parent does not know. Abuse thrives and grows in darkness (secrecy). SB2384 will be a light uncovering the darkness.

What would you do?

If you came to a crosswalk at a busy street with your child, waiting for the traffic to pass, your child steps toward the street, a car is coming; you pull your child back to safety. Let's say you are busy talking to the person next to you, a car is coming, you do not see it, your child steps into the street, your child is hit. You will feel guilty, probably saying I could have done something if I would have seen the car coming, because you didn't see it your child is hurt. What if the person next to you says I thought you saw the car but did nothing to draw your attention to the danger? How would you feel?

Next scenario: What if the child standing next to you is not your child, just a stranger.

Would you pull the child to safety?

What would you do?

Would you look at the car, thinking that car is only a block away it won't hit the child?

Would you do nothing because the child is a stranger? Nobody you know, nobody you love.

Would you say while if the child gets hit it the car might not really hurt the child?

Would you think if I get involved it would mean a possible police report, I'm running late already, all that paper work, and then I might have to meet the parents? Sounds like too much work, I'll do nothing.

Or would you react because you could be held accountable and the guilt would be too much?

What would you do?

My only hope is that as a parent, with you standing next to my child you would react, doing the right thing, pulling my child to safety.

SB2384 is about protecting the child. The oncoming car is abuse; you are the bystander the one who sees the car (the abuse). You do not assume the parent saw it coming. You tell the parent "A car is coming!" SB2384 shouts to the parent abuse has happened.

SB2384 allows the parent to know of abuse so they can protect their child. It is not about paperwork. It is not about a non-custodial parent versus a custodial parent. It is not about extra work for an already burdened system. It is about the child. Allowing the parent to make a choice to protect them.

Every one of us at one time or another may have gone through an unpleasant, maybe even a horrifying story. We ask what went wrong? What could I have done differently? What information should I have found before making my choice? Is there anything that could have prevented this outcome? Sometimes there are no answers. Sometimes you find something that maybe could have effected the outcome.

I am going to share a story.

This is a true story. A story when children were at that "crosswalk in life". I will start at the end of the story "where the car hits".

July 28, 1999 Two little girls are removed from their home, the mom is committed to the hospital. An ambulance is called to the home, the mom is laying in her vomit, having taking a bottle of pills and has drank a bottle of vodka

June 30, 1999 Social services do a welfare check, finding the children are probably neglected. Action taken?

June 11, 1999 an ambulance comes to the house, the mom is found on the floor, her body temperature is already dropping, she may be dying.

Spring 1999 The police came, found the two little girls alone a 10 year old and 8 year old. The police contacts the mom playing bingo.



Sometime in 1999 or 1998 mom is in jail the girls stay with a relative. The dads can't find them.

May 1999 mom is supposed to be in day treatment for her addiction, she continues to use, while attending treatment.

Feb 1999 mom drinks at daughter's birthday party, she brought a bottle along, family member's thought she had maintained her sobriety. She vomits at the party and wants the girls to clean up. The parents of the girl's guests don't know what has happened.

November 1999 mom is hospitalized in Jamestown for alcohol and meth addiction.

September 1998 mom moves with the girls leaving all their belongings behind, jilting a drug dealer on drugs she was supposed to pay for. She is fleeing.

March 1998 supposedly in treatment

February 1998 mom and girls seem to disappear. Relatives have taken them. Mom is drinking heavily.

1998, 1997 mom seems to be very depressed; girls are in the caregiving role.

1995 mom's son goes to live with his dad.

1994 Mom finds out her son, the girl's half brother has been molesting the girls, incident reported by neighbors through 911; matter turned over to social services. 9 months of sexual abuse.

January 1994 girls set fire to their bed, losing all their belongings.

1992 to 1996? Mom is sober after treatment in June 1992.

1989 to 1994 3 reported incidents to social services.

What do these dates have to do with SB2384? In 1994 sexual abuse was found, services were only recommended, not required. If the other parent would have found out of the abuse than, action could have been taken, thus eliminating all the abuse/ neglect that followed.

**CO**

**NT**

**NEXT FICHE**

The police, social services had the opportunity to reach out and grab hold, to pull the girls to safety, but for whatever reason they were not rescued. SB2384 gives the other parent the opportunity to take action, it gives one more person the ability to reach out, possibly making a difference. It is so easy to look back and think something wrong, but if the ones who know for sure of the danger do not share it, little can be done to help the child. Parents need to know when a child is in danger. SB2384 would require social services to inform the parents. Parents are the first lines of defense to protect the child. If one parent will not or cannot act, then give the opportunity to the other parent to protect the child.

This story has many details, some of them for me to horrifying and emotionally difficult to share in this public setting. The facts can be released to anyone in the committee, but to protect the girls' privacy I do not want to publicly comment on these, other than what has been share.

### Statistics

#### P.34 of report

According to 1998 Child abuse/neglect report most incidents are reported by school personnel, than police, friends, neighbors, family, only 4.1% are reported by non-custodial parents and custodial parents. Custody should not ever be an issue when it comes to child abuse. All child abuse allegations should be taken seriously, investigated, if false or in retaliation for something than social services should take appropriate action.

Where are the statistics for repeat offenders? According to a federal mandate in 1996 these are to be tracked. How many of these reports are reoccurring?

P.35 Under services required, the custodial parent furnished more reports under this category than the non-custodial parent did. Looking at this is the department taking custodial parents reports more seriously, or non-custodial parents more of a threat.

P. 13 shows the majority of reported abuse cases are female suspects, or subjects. Since the majority is parents with single parenting being a big risk factor and most cases are reported by the schools and police. It is logical to see female custodial parents at being a high risk but on p.35 more non-custodial are having services required. Is the department bias?

### Financial costs of the fight against abuse:

1. the attorney for the child
2. the child investigator
3. the attorney for the abuser
4. the attorney for the other parent
5. the prosecuting attorney
6. the judge
7. the protection board
8. the county social service board
9. the intake worker
10. the law enforcement officers
11. the case social worker
12. the treatment center
13. the medication
14. the loss wages of non-offending parent
15. the school counselors
16. the school nurse
17. the addiction counselors
18. the therapist
19. the group therapist
20. state housing and other financial aid
21. the medical and therapy costs for child
22. the foster home

These are all people who are involved with one child abuse case, more probably not listed. Abuse is extremely costly to the taxpayer.

Abuse is even more costly to society. SB2384 will add another party to the fight against abuse, the parent.

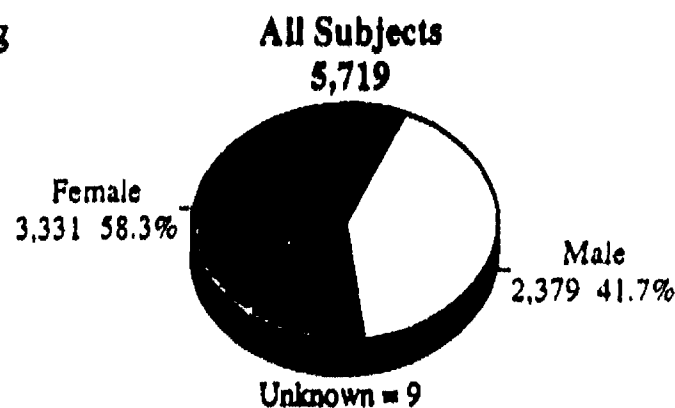
I urge you to give a do pass to SB2384 to protect the children.

Susan Beehler  
Mandan ND 58554  
(701)663-4728

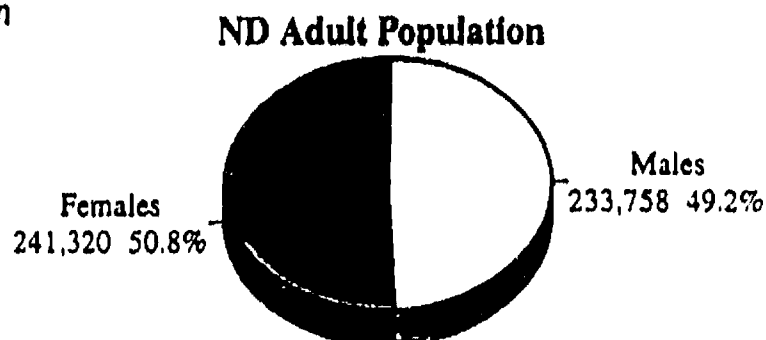
# Subjects

## Gender

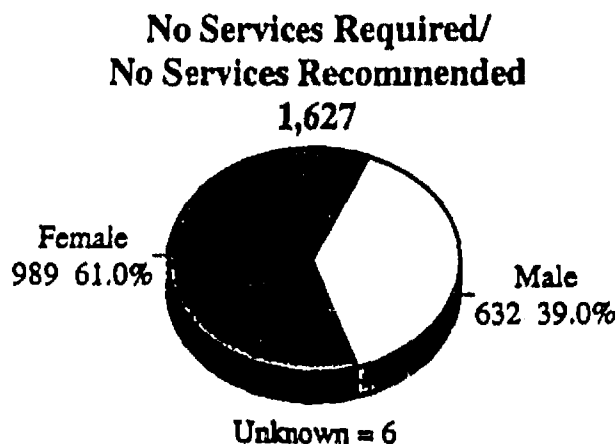
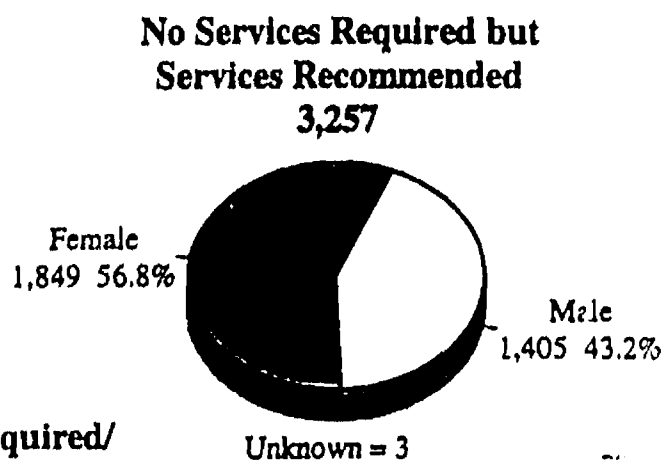
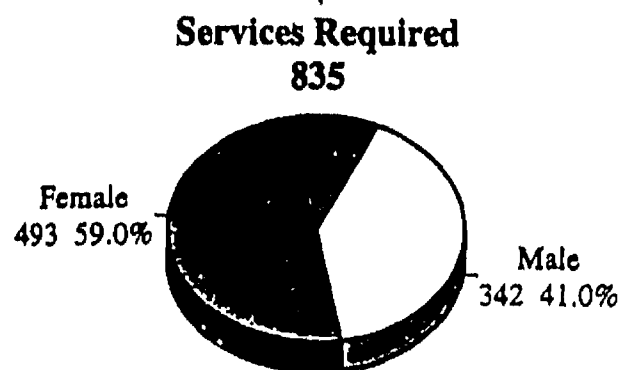
Gender of the subjects (persons suspected of causing maltreatment) for child abuse and neglect cases assessed in 1998.



Gender of the adult population in North Dakota in 1998 (estimate - North Dakota Data Center):



The North Dakota Data Center estimates that the North Dakota adult population is nearly equally male and female (51.4% male; 48.6% female). However, 58.3% of the subjects in North Dakota during 1998 were female. When compared to the North Dakota population data, females were over represented in the child abuse and neglect data compared to males (Chi-Square = 128.36,  $p < .001$ ). When the gender of the subjects is compared by the result of the report, the data suggests that gender is not related to the outcome of the report.

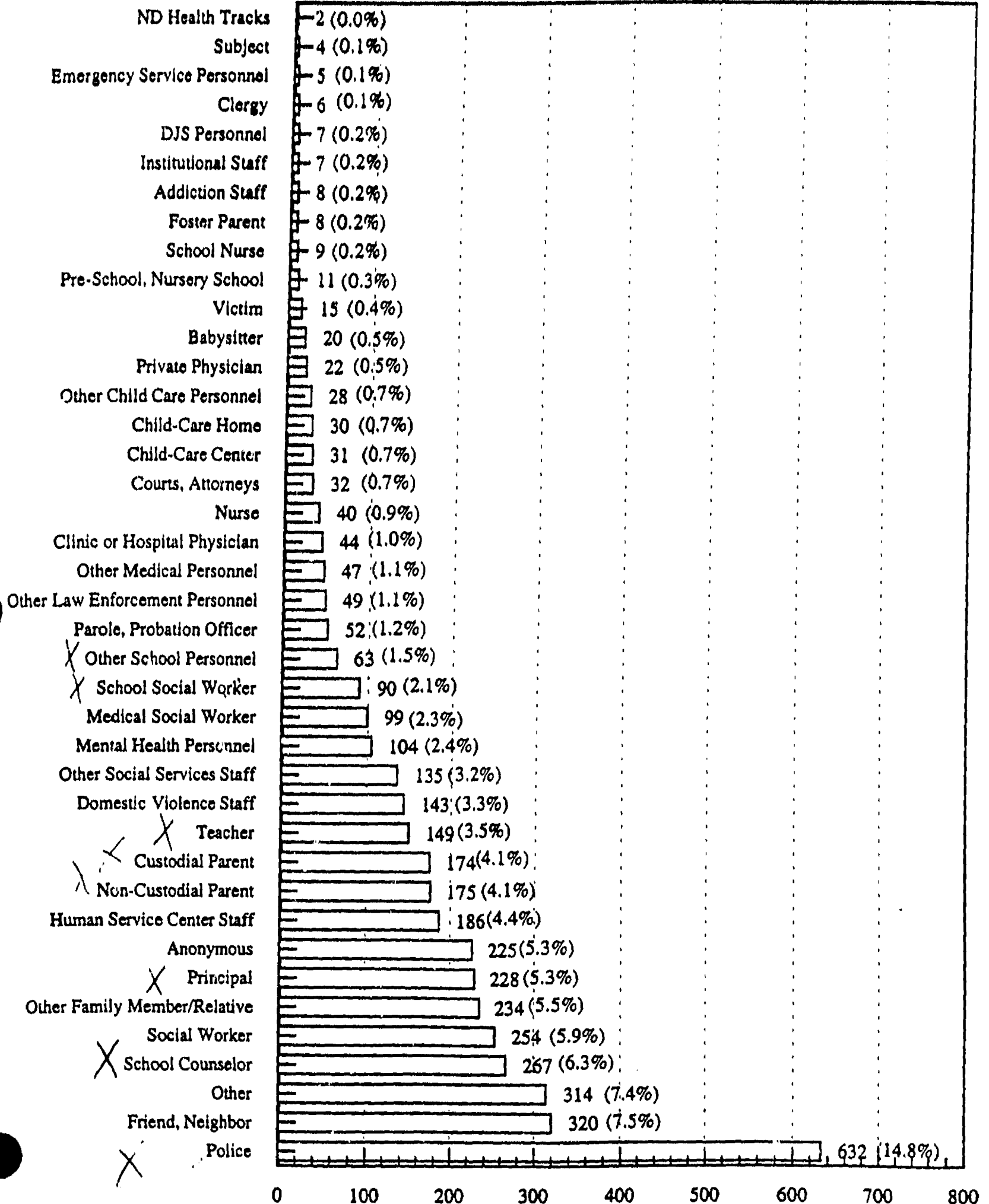


## 2.2 Source of Screened-In Reports (Referrals)

State	Social Services Personnel	Medical Personnel	Mental Health Personnel	Law Enforcement Personnel	Educational Personnel	Child Day Care Providers	Subst Care Provis
North Dakota	625	253	291	749	820	119	
Ohio	12,675	4,114	2,374	12,347	9,954	1,084	
Oklahoma	4,041	2,303	2,026	3,705	3,927	649	
Oregon	1,566	1,653	156	5,318	2,441	330	
Pennsylvania							
Rhode Island	804	1,214		1,003	1,463	243	
South Carolina	2,090	2,236		2,299	3,345	179	
South Dakota		247	196	1,339	844	76	
Tennessee	1,680	2,680		5,335	3,680	433	
Texas	1,898	13,643	3,939	14,974	22,072	1,312	
Utah	2,630	1,120	475	2,466	1,902	200	
Vermont	137	135	162	332	497	65	
Virginia	1,931	2,659	1,392	5,069	6,411	528	
Washington	6,125	2,533	1,375	3,610	5,336	968	
West Virginia	1,793	991	697	1,153	1,975	155	
Wisconsin	2,892	1,293	1,022	1,535	2,022	321	
Wyoming	181	112		316	299		
Total	200,574	145,494	45,843	226,654	254,072	19,315	13
Number Reporting	44	45	31	45	45	42	

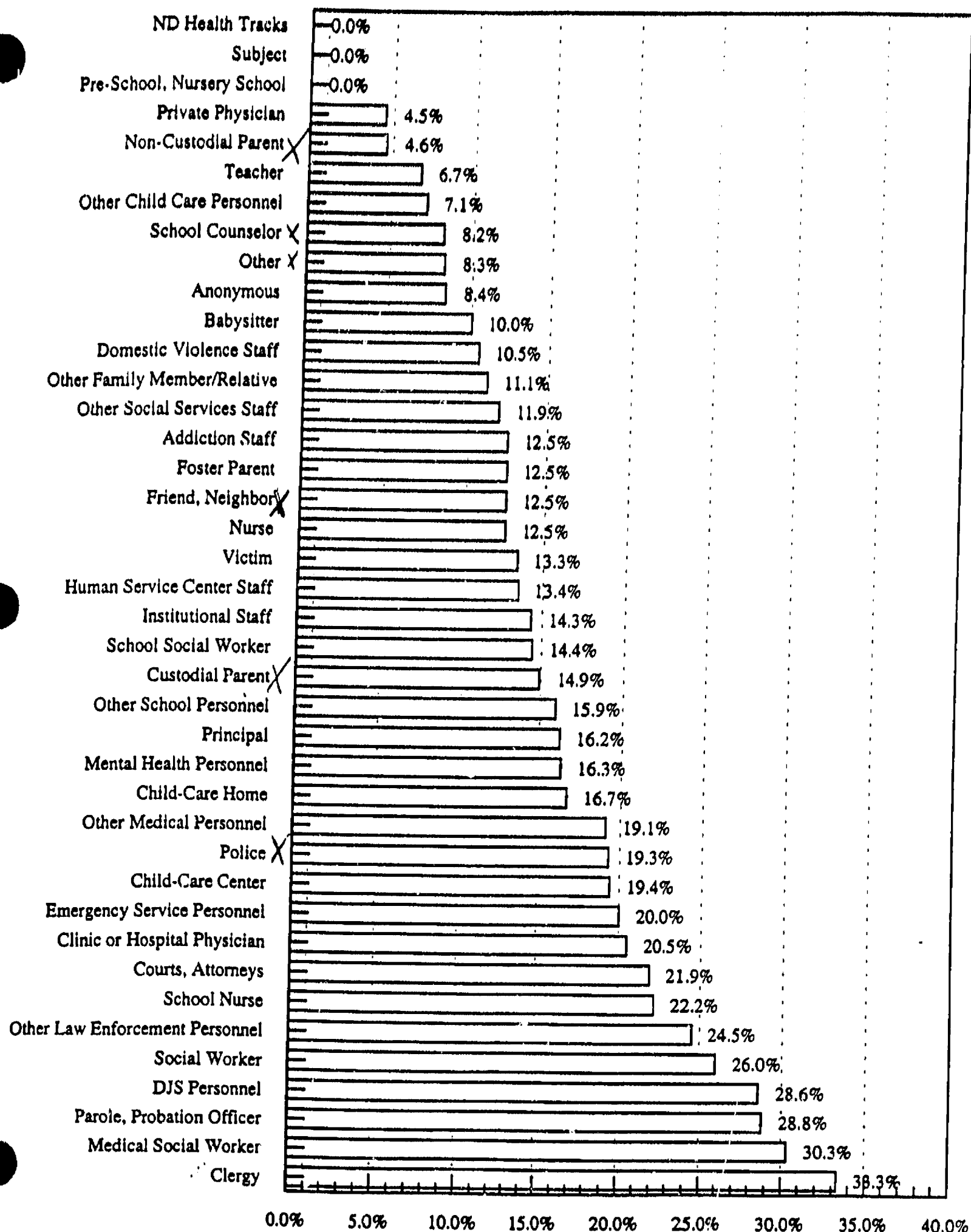
[Next](#)
[Back](#)
[Home](#)

# Total Reports : 9



# Source of Initial Report

Services Required = 613

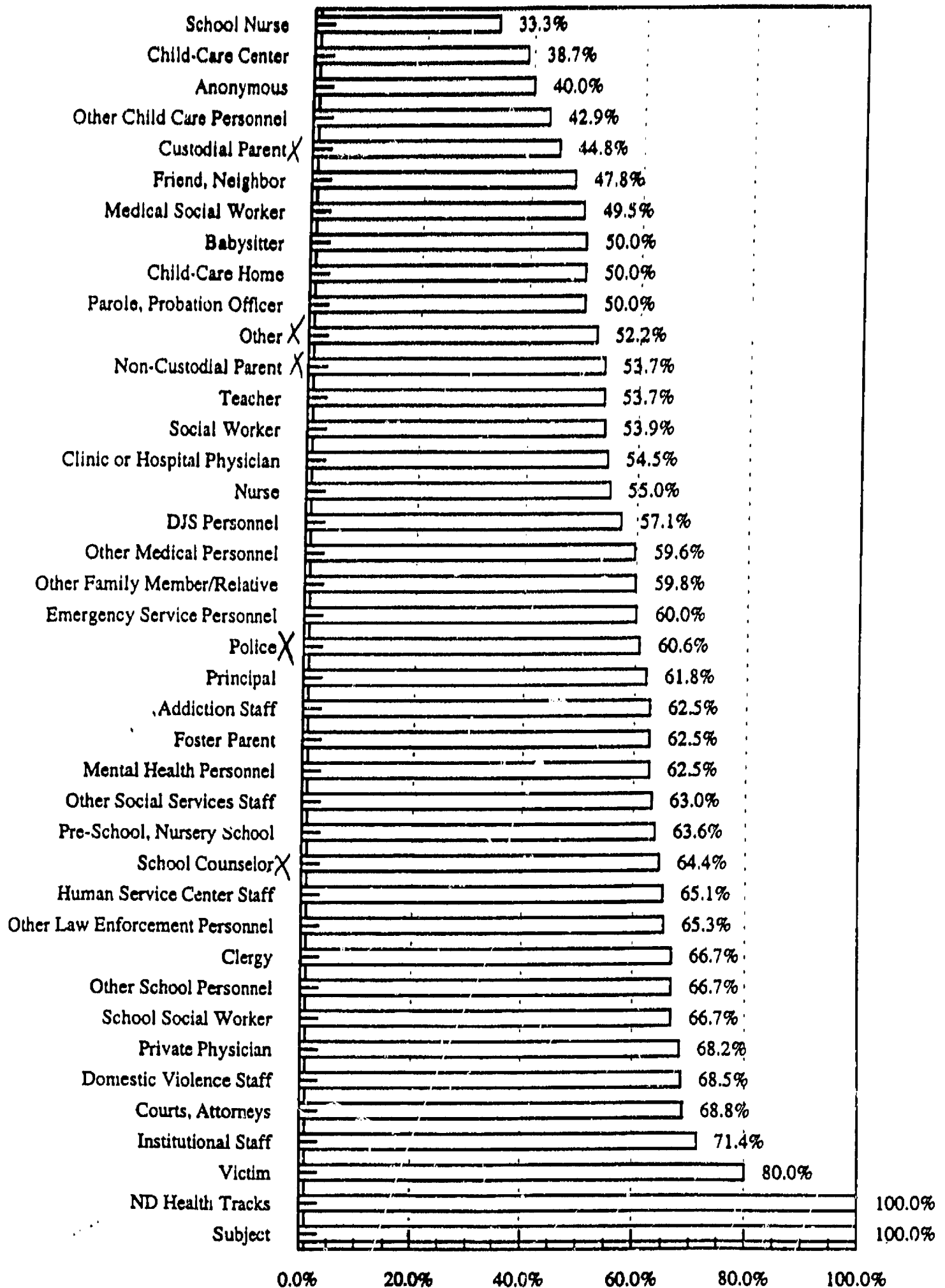


\*Percentage of total reports determined\*services required by source



# Source of Initial Report

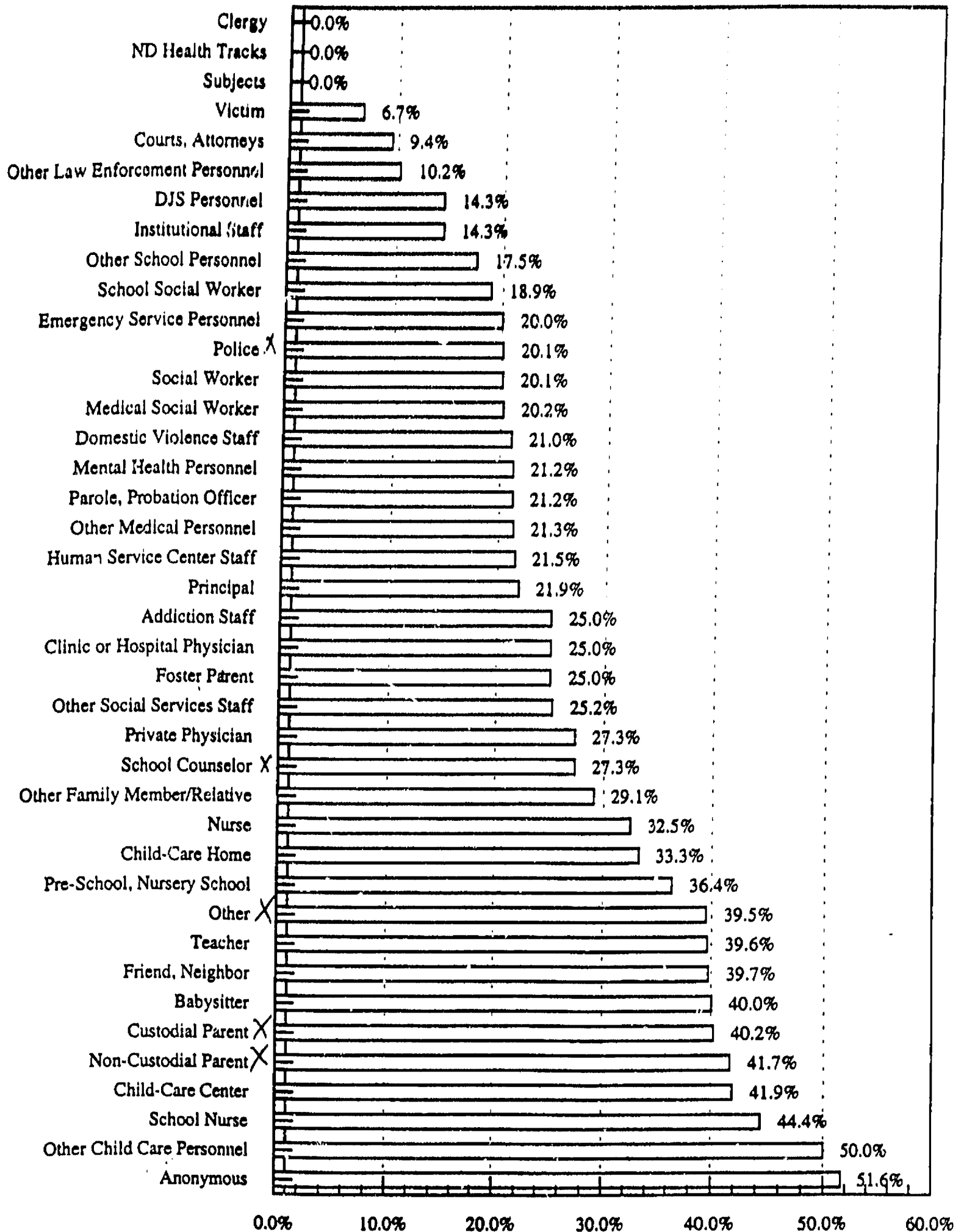
## No Services Required but Services Recommended = 2,424



\*Percentage of total reports determined no services required but services recommended by source

# Source of Initial Report

No Services Required/No Services Recommended= 1,232



\*Percentage of total reports determined no services required/no services recommended by source

## **Appendix C: Data Items Required by the Child Abuse Prevention and Treatment Act Amendments of 1996**

In 1996, The Child Abuse Prevention and Treatment Act was amended to require that any State receiving the Basic State Grant work with the Secretary of the Department of Health and Human Services (DHHS) to provide specific data on child maltreatment to the extent practicable. The legislation specified the data items listed in the following pages.

The Child Abuse Prevention and Treatment Act Amendments of 1996 (Public Law 104-235, Oct. 3, 1996) require that any State receiving the Basic State Grant work with the Secretary of the Department of Health and Human Services to provide, to the extent practicable, specific data on child maltreatment. This law (42 U.S.C. 5106a) specifies the following data items:

- (1) The number of children who were reported to the State during the year as abused or neglected.
- (2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—
  - (A) substantiated;
  - (B) unsubstantiated; or
  - (C) determined to be false.
- (3) Of the number of children described in paragraph (2)—
  - (A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;
  - (B) the number that received services during the year under the State program funded under this section or an equivalent State program; and
  - (C) the number that were removed from their families during the year by disposition of the case.
- (4) The number of families that received preventive services from the State during the year.
- (5) The number of deaths in the State during the year resulting from child abuse or neglect.
- (6) Of the number of children described in paragraph (5), the number of such children who were in foster care.
- (7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.
- (8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.
- (9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made

- (10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.
- (11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.
- (12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

**Next**

**Back**

**Home**

Safety  
permanency  
a child-family

## Chapter 2 Preventive Services

The objective of child abuse and neglect prevention programs is to provide services to families and their children at risk of child maltreatment. Such services are designed to increase parental childrearing competence and knowledge of the developmental stages of childhood. This chapter reports the number of children who received preventive services, the types of service received, and the funding sources for these services.

### 2.1 Children Receiving Preventive Services

Nationwide, approximately 20 of every 1,000 children in the population, an estimated 1,397,000 children, received preventive services.<sup>1</sup> Because of the complexity of collecting data on preventive services, which are often provided through local community-based agencies, these figures may be an undercount.

### 2.2 Types of Preventive Services and Funding Sources

Some examples of preventive services cited by States include respite care; parenting education; housing assistance; substance abuse treatment; day care; home visits; and individual and family counseling, homemaker, transportation, crisis and intervention, and domestic violence services.

State CPS agencies use Federal and State funds to provide preventive services. State contacts mentioned the following programs as the most common sources for funding preventive services:

- Title IV-B, Subpart 2, Section 430, of the Social Security Act, as amended (Promoting Safe and Stable Families) [42 U.S.C. 629 et seq.]. This legislation has the goal of keeping families together by funding such services as preventive intervention, so that children do not have to be removed from their homes; services to develop alternative placements if children cannot remain safely in the home; and reunification services to enable children to return to their homes, if appropriate.
- Title XX of the Social Security Act, Social Services Block Grants (SSBG) [42 U.S.C. 1397 et seq.]. SSBG funds are used for such services as child day care, child protective services, information and referral, counseling, and employment.
- Section 106 of Title I of the CAPTA, as amended (42 U.S.C. 5106 et seq.). The Child Abuse and Neglect State Grants provide funds to States to improve child protective service systems. These grants serve as a catalyst to assist States in screening and investigating child abuse and neglect reports, improving risk and safety assessment protocols, training child protective service workers and mandated reporters, and improving services to infants disabled with life-threatening conditions.
- Title II of the CAPTA, as amended (42 U.S.C. 5116 et seq.). Community-Based Family Reunification and Support Grants assist each State in preventing child abuse and

... and support states assist each other in preventing child abuse and neglect and in promoting healthy parent-child relationships by developing, operating, expanding, and enhancing a network of community-based, prevention-focused, family resource and support programs that coordinate resources among a broad range of human service organizations.

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<sup>1</sup>National figures are based on data submitted to the SDC. Appendix E lists the complete SDC data tables. All statistics from the SDC presented in this volume can be examined in detail by State submission. National estimates have been calculated when fewer than 51 jurisdictions reported a given item. For each estimate presented in this volume, a supporting table showing how the estimate was calculated is presented in appendix Q. See appendix Q, table Q2-1. [return](#)

[Next](#)

[Back](#)

[Home](#)

## **Chapter 3 Referrals and Reports**

Referrals of possible child maltreatment come to the attention of CPS agencies through telephone calls, walk-ins, letters, and observations by social workers. In most agencies, particular workers are designated as the initial point of contact and handle these referrals. One function of these workers is to "screen out" referrals that do not warrant further attention and to "screen in" referrals that warrant further investigation or assessment. In this chapter, both referrals that are screened out and those that are screened in are discussed. As in chapter 2, national figures presented in this chapter are based on data submitted to the SDC. Appendix E contains the complete SDC data tables. All statistics presented from the SDC can be examined in detail by State submission. National estimates have been calculated when fewer than 51 jurisdictions reported a given item. For each estimate presented, a supporting table showing how the estimate was calculated is presented in appendix G.

### **3.1 Screening of Referrals**

Many of the calls CPS agencies receive are screened out. A comprehensive study of screening practices in the 1980s found that 9 to 14 percent of referrals were "obviously not appropriate" for investigation.<sup>1</sup> Reasons varied: They were out of the agency's jurisdiction; the perpetrator was not a caretaker; or, the parent or child in the referral could not be located. A total of about 30 percent of calls screened out was deemed to be either "obviously not appropriate" or "likely not appropriate."

Of the estimated 2,806,000 referrals screened for 1998, while approximately two-thirds (66.0%) were screened in as warranting investigation or assessment,<sup>2</sup> a third (34.0%) were screened out for reasons most frequently cited as related to CPS policy: Referrals did not meet the statutory definition of maltreatment, did not contain sufficient information upon which to proceed, and/or did not pertain to the service population of the agency. (For example, calls related to juvenile delinquency offenses may not be handled by a CPS agency.)<sup>3</sup>

### **3.2 Report Sources**

Referrals that are screened in for investigation are defined in the NCANDS as "reports alleging child maltreatment." In 1998, more than half of such reports (53.1%) were submitted by professionals, including educators, medical staff, law enforcement and social service personnel, and others. Submitting the remaining 46.7 percent of reports were nonprofessionals, including family members (parents, other relatives, and alleged victims) and community members (friends and neighbors, anonymous reporters, and others). Figure 3-1, Reports by Source, presents percentages of the reports for each of these categories.

Of all report sources, the four most common types were education personnel (14.9%), legal or law enforcement personnel (13.3%), anonymous or unknown reporters (12.1%), and social service personnel (11.8%). Nearly 10 percent of reporters were categorized as "other," the fifth-most common type. In general, "other" includes classifications which the States could not

match to the NCANDS categories. "Friends and neighbors," "medical personnel," and "other relatives" each supplied between 8.1 and 9.1 percent of the reports.

More than 75 percent of States reported that between 33.0 and 66.9 percent of reports were made by professionals.

### 3.3 Report-to-Investigation Response Time

Most States have established standards for initiating investigations of reports once they have been screened in. Given a high priority, some reports require response immediately. The worker attempts to contact the family and the child within hours of receiving an assignment to investigate a report. In most jurisdictions, response in less than 24 hours is the standard for responding "immediately." Other reports, receiving a lower priority, are classified as needing a response within a few days. In nearly all States, an investigation must be completed within 30 days of the screened-in report.

Calculation of an "average response time" for State investigations is difficult, even though many States assign priority standards and monitor, at least procedurally, to determine whether investigations have been initiated within the time standards specified. Few States, however, track the actual time elapsing between the State's receipt of a referral and the initiation of an investigation. Based on data from six States, average response times to high-priority reports ranged from 3 to 25 hours. Average response times to reports within a second-level priority ranged from 3 to 488 hours.

### 3.4 Investigated Reports

In most agencies, some workers screen referrals and others conduct investigations. However, in some jurisdictions, the same workers conduct all CPS functions, and in some rural areas, these workers may provide other child welfare services, also. Based on data from the 24 States that differentiated between workers who screened and workers who investigated, the estimate of completed investigations per worker in 1998 is 94 per year. Workload likely varies within and across States.

Of 1,820,608 report dispositions in 51 States, 532,063 (29.2%) were "substantiated" or "indicated." (See figure 3-2.) Nearly twice as many reports (57.2%) were found to be "unsubstantiated," and more than a tenth (13.6%) received other dispositions. Thus, of all referrals that came to the attention of CPS agencies, approximately two-thirds (64.9%) were investigated during the reporting period, and slightly fewer than one-fifth (19.0%) of all referrals ultimately resulted in a "substantiated" or "indicated" finding of maltreatment.

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<sup>1</sup> S. Wells, J. Fluke, J. Downing, and C. Brown. *Screening in Child Protective Services: Final Report*. (Washington, DC: ABA Center on Children and Law and American Humane Association, 1989). return

<sup>2</sup> See appendix G, table G3-1. return

<sup>3</sup> One set of standards for deciding whether or not to investigate a report of child abuse was established by the Child Welfare League of America. These standards specify that a report accepted should include an alleged victim under the age of 18, the child's parent or caregiver as the alleged perpetrator, an allegation meeting the statutory definition of possible abuse or neglect, and sufficient information for the agency to identify and locate the child. See, Child Welfare League of America, Inc. *Standards of Excellence for Services for Abused or Neglected Children and Their Families*, rev. ed. (Washington, DC: Author, 1999) 30. return



## **Chapter 5 Services Provided for Child Maltreatment Victims**

CPS service interventions are designed not only to prevent future occurrences of child maltreatment, but also to remedy whatever harm might have occurred. Service provision is based on an assessment of a family's strengths, weaknesses, and needs, which leads to the development of an appropriate plan addressing child safety. To implement the plan, CPS provides services directly or arranges child protective services for clients.

The services reported in the NCANDS data are defined as postinvestigative services, initiated within 90 days of the disposition of an investigation. These data are likely to underestimate the provision of services because of the complexities of recording service data.

This chapter identifies the proportions of children reported as maltreated who received various types of services, such as foster care, court intervention, and family-based health and mental health services. The proportion of victims who had received services previously is also examined. Finally, factors related to the provision of services are analyzed.

The national figures presented in this chapter are based on data submitted to the SDC. Appendix E lists the complete SDC data tables. All statistics presented from the SDC can be examined in detail by State submission. National estimates have been calculated when fewer than 51 jurisdictions reported a given item. For each estimate, a supporting table showing how the estimate was calculated is presented in appendix G. DCDC data are used to describe the factors related to service provision.

### **5.1 Service Receipt and Types of Service**

Nationally, an estimated 409,000 child victims received postinvestigative services, and an estimated additional 211,000 children who were subjects of unsubstantiated reports also received services.<sup>1</sup> Figure 5-1 shows the variation in the percentages of victims who received services in each State. The majority of States reported that between 25 and 75 percent of victims were service recipients.

The median response time from report to start of service was 29.0 days; the mean response time was 39.0 days.<sup>2</sup>

The type of service most frequently identified for child victims and their families was case management, followed by therapeutic services, such as counseling, mental health and substance abuse treatment, and family-based services, for example, family support, family preservation, and home-based services. (See figure 5-2.) In some cases, foster care was used to protect the child and to provide an interval for family members to improve conditions that caused a child to be removed from the home. Nationally, an estimated 144,000 child victims were placed in foster care to protect them from further maltreatment. An additional estimated 33,000 children who were not victims were placed in care and supervision of the child welfare agency; some of these latter placements may have occurred during the investigation of a report subsequently

determined to be unsubstantiated. These estimates are likely to undercount the number of entries into foster care because of the limited followup period after investigation.

Juvenile court involvement in CPS cases is another possible intervention. Court actions, which can include proceedings to determine temporary custody of the victim, guardianship, or disposition of State dependency petitions, were initiated for an estimated 191,000 maltreatment victims.<sup>3</sup> In the 12 reporting States, most victims who were the subjects of court actions (81.9%) had court-appointed representatives.

Some victims of maltreatment had received family preservation services or had been reunified with their families during the 5 years prior to 1998 reports. In the 13 reporting States, 21.8 percent of victims had received family preservation services within the previous 5 years. In 15 reporting States, 5.5 percent of victims had been reunited with their families after a stay in foster care within the previous 5 years. Family preservation services are designed to prevent the placement of children outside the home while ensuring their safety. In general, these services are characterized by their intensity, their short duration, and their extensive range of therapeutic and support services to meet the needs of families in crisis.

## **5.2 Factors Influencing Receipt of Services**

There are several factors reported in the DCDC data that are associated with the provision of postinvestigative services, as illustrated in table 5-1. The "Odds Ratio" column in the table reflects the relative importance of each category within the factors, when controlling for all other factors. The categories associated with provision of services can be summarized:

- Victims of multiple types of maltreatment were 43.3 percent more likely, and victims of neglect 16 percent more likely, to have received services than victims of physical abuse;
- Victims from families categorized as having financial problems or receiving public assistance were 138.2 percent more likely to have received services than victims from families not identified as having financial need;
- Prior victims were 51.8 percent more likely to have received services than children with no prior victimization;<sup>4</sup>
- Children belonging to the "Hispanic" and "Asian/Pacific Islander" categories were 33.9 percent and 39.6 percent, respectively, less likely to have received services than "White" children, although no significant differences in service usage were seen for "African-American" or "American Indian/Alaska Native" children;
- Children who were reported by medical personnel as maltreated were 30.5 percent more likely to have received services, and children reported by law enforcement personnel or education/day care staff were approximately 19 percent less likely to have received services, than were children reported by social services/mental health personnel;
- Younger children, from birth through age 3, were the most likely to have received services. Compared to them, all older age categories were 20.0 percent less likely to

have received services; and

- No differences were found between service provision for boys compared to girls.

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<sup>1</sup> See appendix G, tables G5-1 and G5-2. return

<sup>2</sup> See appendix G, table G5-3. return

<sup>3</sup> See appendix G, table G5-4. return

<sup>4</sup> This finding is consistent with other research on the increased likelihood of service provision to children with prior reports. See J. Fluke, Y. Yuan, and M. Edwards. "Recurrence of Maltreatment: An application of the National Child Abuse and Neglect Data System (NCANDS)." *Child Abuse & Neglect* 23:7 (1999) 633-650. return

[Next](#)

[Back](#)

[Home](#)

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**Child Maltreatment Report Characteristics of Mandated Reporters: A Secondary Data Analysis of the NCANDS**

*Research Investigator: John E. Kesner, Ph.D.*

Motivated by the Child Abuse Prevention and Treatment Act (CAPTA) of 1974, all 50 States and the District of Columbia now have mandated that certain professionals who come into contact or work with children report child abuse or neglect. Medical, educational, legal, and social service personnel are required, by law, to report suspected cases of child maltreatment.

Despite mandated reporting, child maltreatment remains a poorly understood phenomenon, in part, because of our limited understanding of the reporting process. The overall objective of this research project is to examine and compare longitudinally the characteristics of referrals from mandated reporters alleging child maltreatment. To accomplish this objective, data from the NCANDS will be used to address two research questions: First, what are the characteristics of substantiated child maltreatment cases specific to each of the four mandated reporters, and are these characteristics consistent over time? Second, are there significant differences among these characteristics, and are these differences consistent over time?

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**Predictors of Recidivism Identified from Case-Level Data of the National Child Abuse and Neglect Data System (NCANDS)**

*Research Investigators: Amy Gordon and Cathy Taylor*

The purpose of this analysis is to identify the child, family, and case characteristics that are predictors of recidivism (e.g., the recurrence of a substantiated report of child maltreatment within a 12-month period). Data from the NCANDS' DCDC, made available by the National Data Archive on Child Abuse and Neglect at Cornell University, are being used for the analysis. The sample consists of approximately 96,000 children from 4 States who experienced a substantiated report of abuse or neglect in 1995. Children who were subjects of an additional substantiated report within 12 months of the date of their initial report are being compared with those who did not experience a subsequent report of maltreatment. A logistic regression

analysis is being conducted to identify the risk factors associated with an increased likelihood of recidivism.

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**The Impact of Foster Care and Non-Foster-Care Services  
on Reducing the Recurrence of Maltreatment**

*Research Investigator: Jeffrey K. Johnson*

For more than a decade, critics of service alternatives to foster care have argued that these alternatives often fail to protect maltreatment victims adequately from additional abuse.

In general, providing statistical evidence on the impact of service alternatives has been difficult because CPS agencies sometimes discover child abuse only in the course of providing services, a process termed the "case-finding effect." A second research difficulty, the "targeting effect," is that children whose families receive services are typically at greater risk of subsequent maltreatment.

The current research employs a methodology that controls for the "targeting" and "case-finding" effects. Preliminary analyses of data from the NCANDS suggest that services are effective at reducing recurrence of maltreatment. Indeed, lower rates of maltreatment were observed for all specific types considered, including physical abuse, sexual abuse, and neglect.

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## COMMON MYTHS REGARDING CHILD SEXUAL ABUSE

### MYTHS ABOUT VICTIMS

- \* Children are seductive.
- \* Only or primarily female children are sexually abused.
- \* It is primarily adolescents and preadolescents who are sexually abused by adults.
- \* Child sexual assault occurs primarily in the lower socioeconomic groups.
- \* If a child is not afraid of or filled with anger toward a sexually abusive parent, then he/she is not being hurt by the parent.
- \* If a child makes an allegation of sexual abuse, then retracts the statement, obviously the child was initially lying.
- \* Children, particularly preschool and pre-puberty age, have the ability to fantasize/lie to concoct stories of being sexually abused in order to gratify ulterior motives.
- \* Children are always hurt by criminal prosecution of their sexually abusive parents.
- \* Once children have initially disclosed sexual abuse victimization experience, it should be easy for them to repeat the story to anyone else who needs to hear it (i.e., social workers, attorneys, police officers, judges, etc.). If a child cannot do this, it is evidence that she/he is lying.
- \* A child who has been the victim of sexual abuse once is not likely to allow this to happen again by the same person or by anyone else.
- \* Adolescents can protect themselves from sexual abuse.
- \* When incest occurs, all family members are responsible -- even the children.
- \* All child victims of sexual abuse are at high risk for becoming abusers in the future.
- \* Children "get over" sexual abuse victimization by forgetting about it.

### MYTHS ABOUT OFFENDERS

- \* Only or primarily male adults sexually abuse children.
- \* An adult who adamantly and strenuously denies she/he is guilty of alleged sexual abuse, and perhaps even willingly seeks services to "prove" innocence (therapy for child and self, lie detector test, etc.) must be innocent.
- \* Fathers who sexually abuse their daughters have stopped engaging in sex with their wives or girlfriends or other consenting adult women.
- \* One can know whether or not an adult could possibly sexually abuse a child by that individual's external behavior and personality.
- \* Adults who rape and sexually abuse children do so to achieve sexual gratification.

### MYTHS ABOUT ABUSE ACTIVITIES

- \* Sexual activity with children only occurs after dark.
- \* Sexual activity with children cannot occur on day visits, but only on overnight visits with parents.
- \* Sexual assault by a stranger is more traumatic than sexual abuse by a known and trusted adult.
- \* Sexual activities with a child which are gentle (rather than violent or forceful) will do no lasting harm to a child.
- \* The non-abusing parent in an incestuous family always knows/never knows about the abuse.
- \* Once an abusing family is under the "watchful eye" of the court, social services, or other form of authority, the chances of continued sexual abuse become very small.

### MYTHS ABOUT PROFESSIONAL SERVICES

- \* Most professional service providers (psychiatrists, psychologists, social workers) are trained in assessing and treating sexual abuse.
- \* Families who are receiving ongoing professional mental health and/or social work services can not hide sexual abuse from the professionals.
- \* Standard psychological testing of a sexually abusive adult will reveal that the individual is disturbed sexually and has the potential to abuse children.
- \* A lie detector test can reveal the guilt or innocence of an alleged offender.
- \* Standard psychological testing will reveal whether or not a child has been sexually abused.
- \* During divorce and custody litigation, accusations of sexual abuse should be disregarded as attempts to discredit the opposing parent.
- \* Treatment of incestuous families should include making the child aware of his/her responsibility for bringing about the sexual activity.
- \* Group treatment, or any treatment, is always the treatment of choice for incestuous families.
- \* Child incest victims should always/never be removed from their home.



# NORTH DAKOTA SENATE

Senator Darlene Watne  
District 5  
520 28th Avenue SW  
Minot, ND 58701-7065

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

COMMITTEES:  
Judiciary, Vice Chairman  
Political Subdivisions

Chairman DeKrey and Members of the House Judiciary:

Senate Bill 2384 requests notification to parents when their child is involved in an investigation by child protection services and abuse to that child is found. It seems non-custodial parents often find out after the fact through other sources that their child has suffered such treatment. Not knowing about it, they cannot help the child overcome their experiences.

The Senate Judiciary worked with law enforcement, child protection services, and domestic violence workers to perfect this bill.

The part that says, "Unless the information is confidential under Section 44-04-18.7" protects confidentiality during an on-going criminal investigation.

A section protects the agency by asking that a "good faith effort" be made to find the parent. The agencies were worried they might be in violation if they didn't find a parent, perhaps out of state, and they did not want to become a type of "missing person's bureau." The Department of Human Services has already perfected a format for proper notification. With the addition of this section a large fiscal note was also removed from the original bill.

And then there is a section that will protect the family if there are domestic violence issues involved, such as a restraining order.

The bill will assure that notice will be given to the parents in this tragic situation. I couldn't believe that this wasn't already the procedure, but sad to say it has not been so. I believe you will hear some sad stories here today, and I pray that this can never happen again in our beautiful state because of passage of SB 2384.

Sincerely,

Darlene Watne  
Senator



**Senate Bill 2384**  
**House Judiciary Committee**  
**March 12, 2001**

Good morning Chairman DeKrey and members of the House Judiciary Committee. My name is Gladys Cairns and I serve as the administrator of child protection for the Department of Human Services. I am here today to provide information concerning Engrossed Senate Bill 2384 and to offer an amendment.

First I want and need to offer my apology to Senator Watne, the Senate Judiciary committee and to this committee. During the deliberation, I failed to recognize a potential road block to the protection of children from placing the amendment, offered by the State's Attorneys' Association, in Section 50-25.1-05.1 instead of placing it in a new subsection 3 of that Section.

As the Engrossed Senate Bill 2384 reads, the Department of Human Services would not be able to make a decision whether or not services are required to provide for the protection and treatment of an abused or neglected child, if the information is confidential under the section of the Century Code which deals with criminal intelligence information and criminal investigative information.

By moving the language "unless the information is confidential under section 44-04-18.7" to subsection 3 in the engrossed bill, the decision-making process would not be affected, only the notification process.

Currently the child abuse and neglect law provides: "If the report (of suspected child abuse or neglect) alleges a violation of a criminal statute involving sexual abuse or physical abuse, the department and an appropriate law enforcement agency shall coordinate the planning and execution of their

Investigation efforts ..." The department's procedure manual for child protection services reaffirms our commitment to coordination with law enforcement and the state's attorney so that we do not interfere with a criminal investigation. Also a part of that coordination is deciding if we need protective services for the children named in the report.

The Department offers the attached amendment for consideration by the House Judiciary Committee.

I would be pleased to answer questions.

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2384**

Page 1, line 7, remove the overstrike over "~~Upon~~", and remove "Unless the information is confidential under section 44-04-18.7, upon"

Page 1, line 17, replace "When" with "Unless the information under section 44-04-18.7 is confidential, when"

Renumber accordingly