

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1029

2005 HOUSE JUDICIARY

HB 1029

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1029

House Judiciary Committee

Conference Committee

Hearing Date 1/25/05

Tape Number	Side A	Side B	Meter #
1		xx	23.8-end
2	xx		0-1.2

Committee Clerk Signature



Minutes: 14 members present.

Chairman DeKrey: We will open the hearing on HB 1029.

Representative Delmore: I am a sponsor of this bill. (Explained bill and gave history).

Vonette Richter, LC: Explained bill (see written testimony on Vulnerable Adult Abuse and Neglect Study).

Representative Meyer: Would this educational program, would it be the elderly person or the people that are taking care of the elderly. It wouldn't just be to target the elderly woman experiencing dementia, or the general public.

Vonette Richter: My understanding is that it is to inform the general public. The committee received some statistics, on page 2 of the handout, the breakdown of the various types of calls that are reported. On page 2, the second full paragraph. My understanding is that it would be to inform the public, family members, neighbors, whoever, to be aware of certain factors or

indicators that a person may need to call in for some help or a referral. This is primarily a public campaign.

Representative Zaiser: That would also deal with people, not necessarily only elderly, but other folks with various mental health diseases that certainly could be used.

Vonette Richter: That is correct, any vulnerable adult, including the elderly.

Representative Kingsbury: In the past, where have these warnings come from, or have they been a reactive announcement to some thing that is out there that is potentially dangerous to vulnerable adults.

Vonette Richter: From the testimony the committee received, a lot of the referrals or the person who notices the problem is the physician of the person. I think the committee received quite a bit of testimony about self-neglect, that there are a lot of people who are making a decision between taking medication or eating. Those are the kinds of cases that are noticed by neighbors, physicians or family. Up to this point, there haven't been any funds for this purpose.

Representative Delmore: Reporting by physicians is mandatory, they are required to do that and they will continue to do so. This would do a public awareness campaign, so that if you have a neighbor and you see some changes, you know who you can call and get a referral and hopefully help that person.

Chairman DeKrey: Thank you. Further testimony in support of HB 1029.

Lynn Jacobson, Elder Rights Program Administrator, Aging Services Division, Dept of Human Services: We support this bill (see written testimony).

Representative Koppelman: This would basically double the funding, then if the Federal continues your funding as \$25,000 per biennium this would be \$50,000 so you would have \$100,000 to work with.

Lynn Jacobson: The \$25,000 that we get from the Fed right now is used for direct services. It's used to pay social workers to go into seniors' homes and visit with them and see what is going on, visit with the families, public health whatever. This \$50,000 would be used only for education of the public.

Representative Maragos: How confident are you that they are going to continue to appropriate that money for the direct services.

Lynn Jacobson: The \$25,000? I am quite confident.

Chairman DeKrev: Thank you. Further testimony in support of HB 1029.

Betty Keegan, State President to AARP ND: Support (see written testimony).

Representative Zaiser: I was curious, would the AARP be interested in jointly working with the State, in terms of information dissemination program.

Betty Keegan: I can speak to the fact that AARP is always happy to partner with other organizations in order to provide services that are necessary or education, information.

Representative Zaiser: I think AARP has done a good job of that, I think that partnering would make this information dissemination program much stronger. Thank you.

Chairman DeKrey: Thank you. Further testimony in support of HB 1029.

Bruce Murray, Attorney with Protection and Advocacy Project, on behalf of Jim Jacobson,

Director of Protective Services for ND Protection and Advocacy Project: We support this bill (see written testimony).

Chairman DeKrey: Thank you. Further testimony in support of HB 1029.

Kathy Hogan, Director, Cass County Social Services: I think I am in support of this bill. In Cass County, we actually administer the adult protective service program. We've had that program since 1985. We provide that service to 6 counties in the whole region. I think it is necessary, but some of your concerns about if we get a lot more referrals, how are we going to manage them. I think it is a bill that will need some kind of monitoring, because if you do a really good public relations campaign, you might get more referrals and you will have to address the issue. It is a potential issue that I think we need to track over time, because as the population ages, we have more and more individuals, and most of our referrals are for self-neglect. Most of them are elderly people living alone, often times their family has moved out of state, so that's the people that we're seeing.

Chairman DeKrey: Thank you.

Representative Galvin: It seems that \$50,000 is the smallest sum I've ever seen in Human Services. Like everything else, it will continue to grow, grow and grow until it becomes a million dollar item.

Kathy Hogan: Remember, this is just the information piece, the actual delivery piece is somewhere else and I share your concern. If we inform lots of people and get lots of referrals, how are we going to provide the service. It is still the right thing to do.

Representative Meyer: In following the money trail, right now in my district, we have unfortunately, we have a child who brings in an adult, their parent, and promptly relieves them of everything they own. They can take care of themselves, they have no problems, but they are starting to be ill, suffering from dementia, and someone comes in and takes them to an attorney,

relieves them of everything they have, and then another child comes in and shows up at Social Services, and that person, who could have provided for themselves totally and taken care with no problem, all of a sudden they are put on the state tax roll. I see that this could be a money saving issue, where we don't allow that, we stop that in its tracks.

Kathy Hogan: The financial exploitation issues are very serious and complex to deal with. That is the most serious adult protection issue, because it is very hard to track the money, to pursue criminal prosecution when funds have been exploited. Many times the elderly person voluntarily gives the money away, and then it is very hard to get it back. Financial exploitation is complex and legal.

Chairman DeKrey: Thank you.

Representative Charging: Ms. Jacobson had spoken of the \$25,000 through federal funding.

Representative Delmore: The \$25,000 is for direct care services. It provides nothing for education.

Representative Zaiser: There are shut-ins and people that don't come in contact with people who can help. We need to be able to help them out. I don't see it growing exponentially.

Representative Bernstein: In regard to what Representative Meyer brought up, it seems to me that when a person is able to take care of themselves, and they go into a nursing home and the money is given away or disappears, isn't it three years before they can go on assistance.

Representative Kretschmar: Yes.

Chairman DeKrey: Further testimony in support of HB 1029, testimony in opposition, we will close the hearing. What are the committee's wishes in regard to HB 1029.

Representative Maragos: I move a Do Pass and re-referred to Appropriations.

Page 6
House Judiciary Committee
Bill/Resolution Number HB 1029
Hearing Date 1/25/05

Representative Meyer: Seconded.

13 YES 1 NO 0 ABSENT DO PASS & RE-REFERRED TO APPROP.

CARRIER: Rep. Boehning

Date: 1/25/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1029

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass and Re-refer to Approp.*

Motion Made By *Rep. Maragos* Seconded By *Rep. Meyer*

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	✓		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin		✓			
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 13 No 1

Absent *φ*

Floor Assignment *Rep. Boehning*

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

REPORT OF STANDING COMMITTEE (410)
January 25, 2005 12:31 p.m.

Module No: HR-16-0980
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1029: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1029 was rereferred to the Appropriations Committee.

2005 HOUSE APPROPRIATIONS

HB 1029

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1029
Vulnerable Adult Abuse Awareness

House Appropriations Committee
Human Resources Division

Hearing Date: 2-4-05 Friday a.m.

Tape Number	Side A	Side B	Meter #
I	X		36.3 - 52.3

Committee Clerk Signature 

Minutes: **Chairman Delzer** called the meeting to order.

Rep. Randy Boehning, District 27: Basically with HB 1029 we are setting up a \$50,000 fund to allow people to have one access point for calling for help. An awareness campaign, through telephone, etc., would be done. It gives a person a way to remain anonymous when giving caseworkers a tip about people (e.g. Neighbors) who need help.

Chairman Delzer: In interim or standing committees, did you discuss if there wasn't enough money to go around, where in the Department of Human Services the money would come from?

Rep Boehning: I do not remember.

Rep. James Kerzman: Would we be duplicating anything already in place for a central number?

Rep. Boehning: I do not think so.

Chairman Delzer: Thank you Rep. Boehning. If the committee gives this a Do Pass, will you be the carrier? If changes are made, we will have someone from Appropriations carry it.

Rep. Boehning: Okay.

Chairman Delzer: Linda, before you start, we would like a spreadsheet of all the money that is spent, not just for the HSCs, but on the Olmstead money on the 211.

Linda Wright, Director of Aging Services for the Department of Human Services: My understanding of HB 1029 is different. The intent I think is to make the public more aware of what is available out there and how to get information. It should be specifically for public education.

Rep. Alon C. Wieland: No fiscal note?

Chairman Delzer: It is all General Fund money. It is not in the Governor's Budget?

Allen/LC: Correct.

Rep. Ralph Metcalf: What was used in previous awareness campaigns?

Wright: We used TV spots, brochures, etc.

Chairman Delzer: Do you use any of those brochures?

Wright: No, they are very old. We do have a fact sheet. Currently, there is no money designated.

Rep. Metcalf: For \$50,000 across the state, I do not think you will accomplish a whole lot.

Chairman Delzer: Thank you, Linda. Committee members, I would prefer to take action on this Monday.

Jim Jacobson, Director of Protection Services for the North Dakota Protection and Advocacy Project, spoke briefly in support of HB 1029 (see one-page written testimony).

Chairman Delzer: We will stand in recess until 1:30 this afternoon.

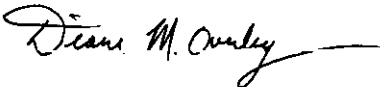
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1029

House Appropriations Committee
Human Resources Division

Hearing Date: 2-11-05 Friday a.m.

Tape Number	Side A	Side B	Meter #
II	X		6.4 - 9.9

Committee Clerk Signature 

Minutes: **Chairman Delzer** called the meeting to order on HB 1029 and explained it deals with a \$50,000 appropriation for an education and awareness campaign for the public about vulnerable adult abuse and neglect.

Vice Chair Pollert: If the \$50,000 is removed, is the bill dead? I suspect the bill needs to go to the full committee.

Chairman Delzer suggested that the committee could move a Do Not Pass.

Rep. Larry Bellew: I motion that we Do Not Pass HB 1029.

Vice Chair Pollert: I second it.

Rep. James Kerzman: I will resist this motion.

Chairman Delzer: I do support the Do Not Pass because we have the money in other areas of the budget. This is another outreach situation that is already covered. The 211 is coming in now and that will get a lot of play over the next few years. Rep. Boehning was not aware of this at all.

We will take a vote. Motion passes 4-2. **Rep. Wieland** will carry the bill.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1029
Education on Abuse and Neglect

House Appropriations Full Committee

Conference Committee

Hearing Date February 14, 2005

Tape Number
1

Side A
X

Side B

Meter #
#0 -#8.0

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1029.

Rep. Alon C. Wieland explained that there was a \$50,000 appropriation in this bill for the purposes of implementing an awareness campaign to the public about vulnerable adult abuse and neglect. The committee felt that they were already doing a substantial amount of outreach in this particular area and that this money is not in the Governor's budget so we recommended a Do Not Pass recommendation..

Rep. Alon C. Wieland moved a Do Not Pass motion on HB1029.

Rep. Jeff Delzer seconded.

Rep. James Kerzman supported this bill by saying that it is a small amount of money statewide but it will do some good. They want to develop some materials to put in the regions and offices to give people some idea of where to go and what to look for when they need services. It hasn't been updated for a number of years and it is a good cause.

Rep. Jeff Delzer responded in opposition to the bill by saying that decisions have to be made as to where the money needs to go and this money would be better spent in the agency to provide actual services. There is information out there and it isn't necessarily up to date and there probably could be more radio and television spots which is probably what this would go for, but services are much better. 211 is also out there and there are ways to cover this without spending another \$50,000.

Rep. Ken Svedjan, Chairman asked how much money there is in the budget designated for vulnerable adults.

Rep. Jeff Delzer answered that he's not sure but he is thinking just about \$4 million.

Rep. Ron Carlisle asked if there is money in the Human Services budget dealing with this particular issue.

Rep. Jeff Delzer answered that it was hard to say because the money is in the human service centers and it is part salaries, etc...

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Not Pass motion on HB1029. Motion carried with a vote of 15 yeas, 8 nays and 0 absences. Rep Wieland will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed discussion on HB1029.

Date: 2/11/05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1029

House Appropriations - Human Resources

Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken "DO NOT PASS"

Motion Made By Rep. Bellew Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Chairman Jeff Delzer	✓		Rep. James Kerzman		✓
Vice Chairman Chet Pollert	✓		Rep. Ralph Metcalf		✓
Rep. Larry Bellew	✓				
Rep. Alon C. Wieland	✓				

Total (Yes) 4 No 2

Absent

Floor Assignment Rep. Wieland

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

Date: February 14, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1029

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **DO NOT PASS**

Motion Made By **Rep Wieland**

Seconded By **Rep Delzer**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim		X
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold		X	Rep. Alon C. Wieland	X	
Rep. Pam Gulleon		X	Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf		X
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber		X			
Rep. Clark Williams		X			
Rep. Al Carlson		X			

Total Yes **15** No **8**

Absent **0**

Floor Assignment **Rep Wieland**

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2005 10:27 a.m.

Module No: HR-29-2740
Carrier: Wieland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1029: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO NOT PASS (15 YEAS, 8 NAYS, 0 ABSENT AND NOT VOTING). HB 1029 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1029

VULNERABLE ADULT ABUSE AND NEGLECT STUDY

North Dakota Law

North Dakota Century Code Chapter 50-25.2 provides for an adult protective services program. Section 50-25.2-02 requires the Department of Human Services, with the advice and cooperation of county social services boards, to develop, administer, and implement a program of protective services for vulnerable adults. Section 50-25.2-01 defines a "vulnerable adult" as an adult who has a substantial mental or functional impairment. This section defines "abuse" as the willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult. "Neglect" is defined as the failure to provide essential services necessary to maintain the physical or mental health of a vulnerable adult. The section defines "financial exploitation" as the taking or misuse of the vulnerable adult's resources or property by means of undue influence, breach of fiduciary responsibility, deception, harassment, criminal coercion, theft, or other unlawful or improper means.

North Dakota Century Code Section 50-25.2-03 establishes a procedure for the voluntary reporting of abuse and neglect. The section provides that a person who has reasonable cause to believe that a vulnerable adult has been subjected to abuse or neglect or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect may report the information to the Department of Human Services or to an appropriate law enforcement agency.

North Dakota Century Code Section 50-25.2-14 provides that the department and county social services boards are not required to implement or enforce the chapter with respect to any region, area, or county of the state if the Legislative Assembly does not provide an appropriation to support the implementation and enforcement of the chapter within that region, area, or county. Except for some subsequent funding of two of the three initial demonstration sites, state general funds have not been appropriated to fund this program. Federal funding made available through the Older Americans Act is used to fund vulnerable adult protective services in each of the state's human service regions.

In 1998 each regional human service center began developing elder services units, which are responsible for vulnerable adult protective services as well as other services.

North Dakota law also provides for criminal penalties for certain acts against vulnerable adults. North Dakota Century Code Section 12.1-31-07.1 provides that the exploitation of a disabled adult or vulnerable elderly adult is a Class A felony if the value of the exploited funds, assets, or property exceeds \$100,000; a Class B felony if the value of the exploited funds, assets, or property exceeds \$20,000 but does not exceed \$100,000; and a Class C felony if the value of the exploited funds, assets, or property is in excess of \$1,000 but does not exceed \$20,000. Section 12.1-31-07.2 provides that in a criminal proceeding in which a disabled adult or vulnerable

elderly adult is a victim, the court and the state's attorney are required to take appropriate action to ensure a speedy trial to minimize the length of time the disabled adult or vulnerable elderly adult must endure the stress of involvement in the proceedings.

Testimony and Committee Considerations

The committee received testimony and reviewed information submitted by the Department of Human Services, a representative of the North Dakota Medical Association, and community organizations that provide services to vulnerable adults and the elderly. The committee focused its discussions on whether there is a need for the mandatory reporting of vulnerable adult abuse and neglect.

The committee received testimony from the Aging Services Division of the Department of Human Services regarding the vulnerable adult abuse and neglect issues in the state. The department reported that from October 2002 to September 2003 the state's eight regional human service centers received 555 information and referral calls regarding vulnerable adult services and spent 7,922 hours providing case services. Of these referrals, 29 percent were made by medical or home health sources, 21 percent from agency sources, 19 percent from family sources, 19 percent from community sources, 7 percent from legal or judicial sources, and 5 percent were self-reported. Self-neglect, which accounted for 63 percent of the referrals, was the most common reason for a referral; neglect accounted for 17 percent; abuse accounted for 11 percent; and suspected financial exploitation accounted for 9 percent of the referrals. Seventy-two percent of the incidents reported were made in regard to individuals who were 60 years old or older, 60 percent of the individuals were female, 78 percent of those individuals were single, 54 percent lived alone, and 29 percent had some type of dementia. The testimony indicated that self-neglect often occurs with vulnerable adults who live alone. It was noted that vulnerable adults who live alone may make choices different from those other people may make. According to the testimony, the elderly are often forced to choose between buying medicine or buying food. The testimony indicated that mandatory reporting of vulnerable abuse and neglect would only be effective if adequate resources were made available. It was noted the sole source of funding for vulnerable adult protection services and the ombudsman program in the state is from the federal Older Americans Act. It was reported that about \$170,000 is received annually under the federal Act. It was noted that the limited funds only allow for crisis intervention services. According to the department, the current system of voluntary reporting is working well but there is a need for more public education.

Testimony from representatives of the medical community indicated that physicians are generally aware of the voluntary reporting law and the reporting process. According to the testimony, clinics in the state are treating vulnerable adults who are being referred to them by protective agency personnel. It was noted that some physicians in the state would prefer that the voluntary reporting mechanism remain in place, but that there is a need for more clarity and education to ensure the proper functioning of the referral process. The testimony also indicated that the enactment of any mandatory reporting requirement may have a negative effect on the willingness of patients or their caregivers to seek timely medical care. It was noted that any law mandating certain persons to report vulnerable adult abuse and neglect must include appropriate safeguards,

such as reporter immunity, and that the system must be adequately structured and funded to function as necessary.

Testimony from AARP North Dakota and a senior adults program indicated that whatever the state's reporting situation is, it must be supported by sufficient public information and education. The testimony emphasized that persons must be educated on how to report, to whom a report should be made, and what information should be reported. It was noted that if the Legislative Assembly determines that certain persons should be mandated to report vulnerable adult abuse and neglect, the legislation must provide adequate funding for investigation, enforcement, and services. It was also noted that because mandatory reporting could potentially be abused, any legislation that mandates reporting must include penalties for making false reports. The testimony indicated that a significant element in preventing and treating the problem is sufficient access to in-home services such as home-delivered meals and home health care. The testimony stressed that education is the key component to reporting vulnerable adult abuse and neglect. The testimony also indicated that many professionals, such as physicians, are reporting suspected abuse and neglect, due in part to the ethical standards of certain professions. The testimony also stressed that in providing adult protective services, any attempt to remedy the situation must be done by using the least-restrictive methods.

The committee considered a bill draft that appropriated \$50,000 to the Department of Human Services for the purpose of implementing an education and awareness campaign to inform the public about vulnerable adult abuse and neglect, including the manner in which incidents of adult abuse, neglect, and exploitation may be reported. Testimony in support of the bill draft indicated the \$50,000 would be a proactive and preventative way of dealing with the issue. The testimony indicated that the funding would be used for an education campaign and to set up a toll-free number for callers to report incidents and to receive information. According to the testimony, the funds currently distributed to the regional human service centers are used for client services only, not for education or media campaigns.

Recommendation

The committee recommends House Bill No. 1029 to appropriate \$50,000 to the Department of Human Services for the purpose of implementing an education and awareness campaign to inform the public about vulnerable adult abuse and neglect, including the manner in which incidents of adult abuse, neglect, and exploitation may be reported.

TESTIMONY
HB 1029 – HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE DEKREY, CHAIRMAN
JANUARY 25, 2005

Chairman DeKrey and members of the House Judiciary Committee, I am Lynne Jacobson, Elder Rights Program Administrator, Aging Services Division, Department of Human Services. I am here today as a resource and to provide information about Vulnerable Adult Protective Services in North Dakota.

The Vulnerable Adult Protective Services law is contained in North Dakota Century Code 50-25.2. In addition, the Older Americans Act requires the Aging Services Division to provide elder abuse prevention. The Older Americans Act provides a modest amount of federal funding for Elder Abuse Prevention (\$25,578 in FFY 2004) which supports services provided through the Regional Human Service Centers. The Aging Services Division appropriates additional Older Americans Act funds for direct adult protective services to supplement the Elder Abuse Prevention dollars at the Human Service Centers.

The attached fact sheet provides detailed information about the Vulnerable Adult Protective Services program.

I would be happy to answer any questions you may have at this time.



north dakota
department of
human services

December 2004

Vulnerable Adult Protective Services

Background:

The North Dakota Legislature passed the Vulnerable Adult Protective Services Law in 1989. The law authorized the Department of Human Services to develop, administer, and implement a program of protective services for vulnerable adults.

In 1998, each regional human service center began developing Elder Services Units, which are responsible for vulnerable adult protective services, as well as other services.

Protection of vulnerable adults seeks to prevent further abuse, neglect, or exploitation and to promote self-care and independence.

State Law:

In state law, a **vulnerable adult is defined as any person older than age 18, or emancipated by marriage who has a substantial mental or functional impairment.**

ND Century Code 50-25.2-03 states that any person who reasonably believes that a vulnerable adult has been subjected to abuse or neglect or observes conditions or circumstances that reasonably would result in abuse or neglect, may report the information to the Department of Human Services or to an appropriate law enforcement agency.

The law gives the department the right to assess and to provide or arrange the provision of adult protective services, if the vulnerable adult consents to and accepts the services. The department may pursue administrative, legal, or other remedies authorized by law, which are necessary and appropriate under the circumstances to protect a vulnerable adult who cannot give consent, and to prevent further abuse or neglect.

See Page 2:

- Demographic Characteristics
- How Calls Are Handled
- Contacts

Statistics:

Vulnerable Adult Services

(October 2003 – September 2004)

- 470 New Cases
- 421 Information and Referral Calls
- 263 Brief Services (required up to 2 hours of staff time to resolve, for example, helping a family locate needed services.)
- 439 Cases Closed
- Hours spent on information & referral, brief services, and cases totaled 7,208 hours

NOTES:

A clarification in reporting occurred. The case data should not be compared to previous data. A new case does not mean a person has not been served before. Recidivism is common. Physical and other abilities change over time, and concerns about neglect or abuse may resurface.

Referral Reasons

- 65% Self-neglect
- 14% Neglect
- 10% Abuse
- 11% Financial exploitation

Referral Sources

- 28% Agency
- 27% Medical/Home Health
- 20% Family
- 15% Community
- 6% Legal/Judicial
- 4% Self

Priority of Request

- 84% Non-emergency
- 9% Emergency
- 7% Imminent danger

Did You Know:

Adult children, other family members, church communities, and other informal support systems help meet the needs of many people. **Individuals who receive vulnerable adult protective services often lack these informal supports.**

Vulnerable Adult Protective Services Demographic Data

October 2003 – September 2004

General

- 70% were age 60 and older
- 59% were female
- 93% were Caucasian
- 5% were American Indian/Native Alaskan

Marital Status

- 64% single/widow/widower
- 20% married
- 14% divorced
- 2% separated

Living Arrangements

- 56% live alone
- 35% live with a spouse or other family member
- 9% live with non-relatives

Alzheimer's and Related Dementia

- 72% Did not have dementia
- 28% Do have some sort of dementia

Reasons for Case Closure:

- 18% Referred to another agency
- 15% Moved out of the area, received protective arrangements, or died
- 15% Client refused services
- 13% Placed in long-term care facility
- 8% Referred to home & community-based services
- 31% Other

Another Resource:

North Dakota Senior Info Line
1-800-451-8693
www.ndseniorinfo.com

Produced December 2004
N.D. Department of Human Services
Aging Services Division
600 E Boulevard, Department 325
Bismarck N.D. 58505-0250
Phone: 701-328-4601 TTY: 701-328-3480

Adult Protection in Practice:

- A vulnerable adult has the right to make decisions on his or her own behalf until he or she delegates responsibility voluntarily to another, or the court grants responsibility to another.
- **When interests compete**, a competent individual's decision supercedes community concerns about safety, landlord concerns about property, or family concerns about health or finances.
- **A person can choose** to live "in harm" or even self-destructively, if she or he is competent to choose, does not harm others, and commits no crimes. (Each year, about 15 percent of the people offered vulnerable adult protective services in N.D. refuse them.)
- **Protection of vulnerable adults seeks to prevent further abuse, neglect, or exploitation and to promote self-care and independence.**

How Calls Are Handled:

When a Regional Human Service Center receives a call about suspected abuse or neglect of vulnerable adults:

- **Staff assess the situation** via phone to determine if an emergency exists.
- **Staff contact emergency responders, if appropriate.**
- If it is not an emergency, but requires more than providing information and referral, **staff may conduct a site visit** to assess the situation and assure appropriate services are offered.
- If appropriate, **staff may offer services** to the vulnerable person such as home-delivered meals, personal care assistance, respite care, or other services.

Human Service Center

Contacts:

Williston	701-774-4600	800-231-7724
Minot	701-857-8500	888-470-6968
Devils Lake	701-665-2200	888-607-8610
Grand Forks	701-795-3000	888-256-6742
Fargo	701-298-4500	888-342-4900
Jamestown	701-253-6300	800-260-1310
Bismarck	701-328-8888	888-328-2662
Dickinson	701-227-7500	888-227-7525



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House Judiciary Committee

HB 1029

January 25, 2005

Chairman DeKrey and members of the committee. I am Betty Keegan, State President for AARP North Dakota. I am here today representing over 73,000 AARP members in North Dakota to support HB 1029.

All but five states have some form of mandatory reporting of vulnerable adult abuse and neglect. Some states specify certain professions and some statutes refer to "any person." It has been the experience of my colleagues in other states that whatever the reporting situation is, it must be supported by sufficient public information and education. You must tell people how they can report, who should be reporting, and what they should report.

Mandatory reporting requires enforcement. Reporting laws do not deter the victimization of vulnerable individuals without subsequent investigation, substantiation, and penalty. This requires adequate training for law enforcement and prosecutorial staff. Again, if we subject people to penalty, we are obligated to educate them in advance of what is required of them to stay within the law.

It then becomes an issue of capacity and the funding to support such a mandate. Do we have sufficient investigators? And once those investigators have ascertained the needs of the victim, are the services there to alleviate the problem? Whether reporting is mandatory or voluntary, we must have the system in place for adequate follow-through or we have failed our vulnerable people.

According to experts, the most effective factor in identifying elder abuse is increased awareness among the general public and professionals. Key front-line professionals, as well as the general public, should be apprised of how to identify potential abusive situations and where and how to make appropriate reports.

This is the reason AARP North Dakota supports an education campaign for North Dakota as an alternative, or perhaps a precursor, to mandatory reporting.

A significant element in preventing and treating abuse of the frail elderly is sufficient access to in-home services such as meals-on-wheels or home health care, which can prevent the first occurrence of abuse because of the contact with other people. Community-based programs, which provide services such as counseling, information and referrals, and personal money management can help prevent and stop abuse. This is especially true in cases of self-neglect, which is the most frequently occurring substantiated form of abuse, nearly 42% based on information from 40 states (National Center on Elder Abuse) and is reportedly 63% here in North Dakota.

By first implementing an education and awareness campaign, we could see if there is a significant increase in reporting abuse and neglect. This could give us a better idea of the scope and nature of the problem before we decide how best to address it, whether it be mandatory reporting and the added responsibilities that entails, or perhaps increasing our commitment to services that provide natural protection and prevention.

Thank you. I'd be glad to answer any questions.

Access to AARP's Policy Book: www.aarp.org/legipoly.html

**Testimony on HB 1029
House Judiciary Committee
January 25, 2005**

*Bruce Murray
gave report
same given
to House
Appropriations*

Chairman DeKrey and members of the House Judiciary Committee, thank you for the opportunity to testify on HB 1029. For the record, my name is Jim Jacobson and I am the Director of Protective Services for the ND Protection and Advocacy Project (P&A).

P&A supports HB 1029. We have worked with the Department of Aging Services Vulnerable Adult staff and Long Term Care Ombudsmen in the provision of protective services to vulnerable adults. This has been a positive relationship in which our two agencies have complemented each other, not duplicated services. This collaborative approach has allowed P&A to dedicate efforts to adults with developmental disabilities and mental illness, consistent with our statutory authority, while Aging Services has addressed the concerns of vulnerable people who do not meet the DD or MI eligibility criteria.

It has been P&A's experience that Aging Services takes a problem solving approach that is non-intrusive and non-threatening. In order for people to access this support for themselves or for loved ones, they must have an awareness that it is available. It is also necessary to understand what the service is to make an informed decision. The funding provided in HB 1029 would be a positive step in the direction of ensuring that awareness and understanding. For this reason I urge the committee to give HB 1029 a do pass.

Thank you.