

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1267

2005 HOUSE HUMAN SERVICES

HB 1267

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1267

House Human Services Committee

☐ Conference Committee

Hearing Date January 17, 2005

Tape Number
#2

Side A
X

Side B

Meter #
2216-4329

Committee Clerk Signature



Minutes:

Vice Chairman Kreidt opened the hearing on HB 1267.

Guests: Daughter-in-law Mary, grandchildren Christine/Andrew.

Rep. Margaret Sitte: See Attached testimony

Rep. Kaldor: With federal law, does an individual feel that they are wronged in ND, do they have any recourse.

Rep. Sitte: They could use the federal law, but laws do change. We have had cases in my district and the situation is unfortunate, and I really wanted to find a way to rectify it.

Vice Chairman Kreidt: Anyone else to testify in favor? Any opposition? Neutral?

Gladys Cairns, Administrator of child protective services, DHS.

See attached testimony.

Rep. Weisz: Your agency does not physically remove the child.

G. Cairns: Under current ND statute, a social worker does not have any authority to remove children. The courts need to do that, in specific cases, the police can remove the children. And physicians can remove children (96 hours) under a judges direction.

Rep. Porter: In regards, to the process. Do the records the social worker gathers during the investigation - confidential?

G. Cairns: Yes, the ND statute requires that it remain confidential. In certain circumstances those records can be requested.

Rep. Porter: Can you give me a couple of them. If a physician has a child that they think need protection. County social services, non custodial parents, are just a few examples.

Rep. Weisz: What is you policy when you notify a parent/guardian of a complaint is or allegation is made.

G. Cairns: Attachment #1 is the current policy.

Rep. Weisz: Is that in Administrative rules/

G. Carins: At this time, is just policy, but in our rules, we indicate they must be followed.

Rep. Weisz: Do we have to pass some legislation, or are we already in compliance with the Fed. statute?

G. Carins: Of the 22 different provisions, not all of them are in law, some are also in policy, so my opinion, you get to decide. I believe we are doing it now.

Rep. Sitte: We are not violating any federal law, but in passing this, it would simply gives us ongoing protection should there be any policy/law changes.

Rep. Kaldor: Relating to the FN, the effect is to the counties for the one time training session to be in compliance. You also have a training curriculum. Is this also provided to the county social service board.

G. Carins: It would be a one time training with all of the other areas included.

Rep. Devlin: Is there some reason you didn't promogate rules on this and run it through the administrative rules, that would, to me, have been the way to go.

G. Cairns: In rules for child protective services is that they must follow policy in our manuals. Therefore I believe, it is already in the rules. If you would like to direct us to do that, we could.

Rep. Sitte: I would not expect any extra training sessions, I would urge this training during their twice a year sessions.

Vice Chairman Kriedt closed hearing on HB 1267.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1267

House Human Services Committee

☐ Conference Committee

Hearing Date January 19, 2005

Tape Number

1

Side A

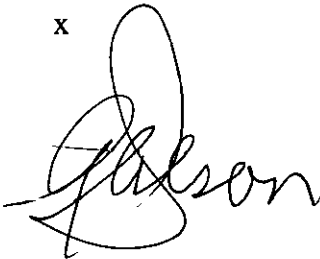
x

Side B

Meter #

#3596 - 6164

Committee Clerk Signature



Minutes:

Chairman Price opened discussion on HB 1267.

Rep. Porter: I think there will be more amendments, but the dept. had one that we can look at now, line 9, strike the word "investigation", and insert the word "assessment" and I would move that.

Rep. Kaldor: Second.

Chairman Price: Investigation will be replaced in line 9 and line 14.

Voice vote: 12-0-0.

Rep. Porter: I talked with Rep. Sitte and seems to be some concern from the committee on #2, about Social Services doing law enforcement work in regards to Maranda rights, search/seizure provisions and I asked her about taking the Federal provision and put it into state statute in Ms. Cairns testimony. I move an amendment to replace #2 with the Fed. statute provisions,

addressing the training of representatives of child protective service system regarding the legal duties of the representatives (See Statute for exact wording)

Rep. Uglem: Second.

Chairman Price: Fed. statute says investigating - why does the state want to use assessment.

Rep. Porter: Ms Cairns was insistent that "assessment" be used in our code.

Rep. Weisz: Assessment of services need to be provided, if a child needs to be removed, that determination is then made and the case is turned over to the proper dept.

Rep. Kaldor: In the Fed. language it uses those terms, I see it is all inclusive by legal rights. Is she being more specific for a reason. I am assuming that all of their curriculum is relates back to some particular law. Concern is that constitutional issues are not covered in the workers training.

Rep. Porter: Yes that is correct, but this takes it a step beyond, so that they are trained to cover the legal rights, covers the entire constitutional issue also.

Rep. Sandvig: Where exactly are you putting that language in?

Rep. Porter: Yes, #2 will be replaced.

Voice Vote: 10-0-2.

Rep. Devlin: I want to offer another amendment. "That the dept. shall prom agate rules to implement the requirements of this statute".

Rep. Devlin: Motion to accept amendments

Rep. Sandvig: Second.

Rep. Porter: Do Pass as amended

Rep. Kaldor: Second

Rep. Devlin: I don't think this bill will do anything, but I feel Rep. Sitte wants to make sure if the Fed. law changes, that we are covered.

Rep. Weisz: I think there was a misunderstanding, it really is relevant to those situations in emergency situations when a child needs to be removed because of a bad situation.

Rep. Kaldor: Would it harm the bill if there was no Sec. 2.

Rep. Weisz: That would have been my suggestion.

Rep. Porter: It is already in the law, more of a safety blanket, the Fiscal note will go away,. basically Sec. 2 can stay.

Vote: Do Pass 6-4-2

Carrier: Rep. Sandvig

FISCAL NOTE
Requested by Legislative Council
01/24/2005

Amendment to: HB 1267

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

HB_1267 creates and enacts a new setion to chapter 50-25.1 of the ND Century Code relating to the duties of the department of human services with respect to child protective services and the training requirements. The training requirements identified in this bill are currently included in the "Certification of Child Welfare Practitioners" training that is already required.
As amended this bill has no Fiscal Impact.

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.*

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.*

Name: Brenda M. Weisz
Phone Number: 328-2397

Agency: DHS
Date Prepared: 01/25/2005

FISCAL NOTE
Requested by Legislative Council
01/12/2005

Bill/Resolution No.: HB 1267

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$6,116	\$0	\$0	\$0	\$0	\$0

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

HB_1267 creates and enacts a new setion to chapter 50-25.1 of the ND Century Code relating to the duties of the department of human services with respect to child protective services and the training requirements. If passed county social service staff would have to attend a one time inital training session to be in compliance. Costs would consists of travel and per diem expenditures for the Counties. In future bienniums the curriculum would be included in the "Certification of Child Welfare Practitioners" training that is already required.

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.*

No fiscal impact on the Department of Human Services. The department of Human Services would add the additional training curriculum proposed in HB_1267 to the Child Welfare training contract with the University of North Dakota. There would be a fiscal impact on the counties for per diem costs.

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.*

The University of North Dakota training contract is already included in the 2005-2007 budget request

Name: Brenda M. Weisz
Phone Number: 328-2397

Agency: DHS
Date Prepared: 01/14/2005

VK
1/20/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1267 H.S. 1-21-05

Page 1, line 9, replace "investigation" with "assessment"

Page 1, line 11, after "all" insert "representatives of the" and replace "employees" with "system"

Page 1, line 12, remove "employees" and replace "to protect the constitutional and statutory" with "of the representatives. The training may consist of various methods of informing the representatives of these duties, to protect the legal rights and safety of children and families from the initial time of contact during assessment through treatment.

3. The department shall adopt rules to implement the requirements of this section."

Page 1, remove lines 13 through 18

Renumber accordingly

Date: 1/19/05

Roll Call Vote #: 1267

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1267

House

Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Rep Devlin*

Seconded By *Rep Sandvig*

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S.Price	x		Rep.L. Kaldor	x	x
V Chrm.G. Kreidt	x	x	Rep.L. Potter	AB	
Rep. V. Pietsch	x		Rep.S. Sandvig	x	
Rep.J.O. Nelson	AB				
Rep.W.R. Devlin	x	x			
Rep.T. Porter	x				
Rep.G. Uglem	x				
Rep C. Damschen	x				
Rep.R. Weisz	x	x			

Total *(Y) 6*

No *4*

Absent *2*

Floor Assignment

Rep Sandvig

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

REPORT OF STANDING COMMITTEE

HB 1267: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1267 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "investigation" with "assessment"

Page 1, line 11, after "all" insert "representatives of the" and replace "employees" with "system"

Page 1, line 12, remove "employees" and replace "to protect the constitutional and statutory" with "of the representatives. The training may consist of various methods of informing the representatives of these duties, to protect the legal rights and safety of children and families from the initial time of contact during assessment through treatment.

3. The department shall adopt rules to implement the requirements of this section."

Page 1, remove lines 13 through 18

Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1267

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1267

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 23, 2005

Tape Number	Side A	Side B	Meter #
1		x	1300-5150

Committee Clerk Signature



Minutes:

Chairman Lee opened the public hearing on HB 1267. All members were present.

Representative Margaret Sitte, District 35, Bismarck, introduced this bill. It relates to the duties of the department of human services with respect to child protective services. See written testimony (Attachments 1, 1A)

Testimony in favor of this bill

Sophia Preszler: In my lifetime, I've come across many different situations, like Margaret Sitte spoke about, where authorities came in and the children were taken from the home because of discipline the parents felt that was their right. There have been sad situations that have not been resolved to this day. So I support this bill because it is very needed.

Neutral testimony

Gladys Cairns, Administer of the child protection services for the Department of Human Services. See written testimony. (Attachments 2, 2A, 2B, 2C)

Sen. Warner: There's a distinction to be made between the assessment and investigation between civil proceedings and criminal proceedings. Don't they have a right to confront their accusers at a criminal proceeding but not at this lower level proceeding.

Cairns: When we proceed with doing an assessment, we're actually looking at if there's a safety issue for a child, is there a need for services, is there risk of future maltreatment. We aren't look if crime happened. We have in our statute, if there is a report that involves a criminal nature, either sexual or serious physical abuse, that our law requires that we cooperate with law enforcement. They would do the criminal investigation, and we would get out of their way because we don't want to get involved in mucking up the criminal investigation. At the same time we would be doing the civil or CPS assessment to see if we have services we can provide. So they're distinct responsibilities but come together when there is a crime committee, when a child is hurt--like a shaken baby.

Sen. Warner: Is there a process for medical providers to provide medical information that a crime has been committed or an allegation of abuse. So I assume they're working on a two-level system, too. Do they always report to child protective services and you make the determination if it needs to be referred to the criminal side. Do the medical providers report directly to the criminal side?

Cairn: Because there is a mandated responsibility to report to child protection any suspected abuse or neglect that medical providers report to CPS. We would look at the report and if it involves serious physical abuse or sexual abuse we have a requirement that we notify law enforcement before we begin to do our assessment. There are certain crimes that medical people are required to report.

Sen. Lyson: She's right. They do have the obligation to, if there are any serious injuries that could have been used by a weapon, law enforcement is advised. There is also a statute, if they know for sure that there's sexual abuse, both organizations get involved immediately and periodically it's actually necessary because they don't do criminal investigations, sometimes, like she says we go out of their way, and vice versa. We can get in their way if it's not a criminal thing. So there are certain things that doctors will notify us directly.

Chairman Lee: What happens if somebody calls the department with a complaint, such as Rep. Sitte and Ms. Preszler brought to our attention. For example, if someone says "I saw this happen to someone I know or this happened to me?"

Cairn: Sometimes we do nothing and sometimes we do too much. If a concern comes directly from a parent or relative or the Governor's office, wherever it comes from, my responsibility is to do an assessment of what happened. If indeed there's a disagreement and what happened I have to sort that out and if it is a case of someone not following policy, then I do take that back to that person's supervisor--in North Dakota, we're a county supervised system, so I don't directly supervise the social workers who do this work. The county commissioners are ultimately responsible. We work through the system that way. We're fortunate because in North Dakota to have our regional human service centers, because at each center there is a person who gets to be responsible for supervision of our child welfare system. So we often go through that person to do some follow up for us, to see if we have a social worker that doesn't understand policy, if there's a family member who doesn't understand our limitations. We get a lot of complaints that we have not removed custody from a parent and given the child to another relative or another parent, so we have to explain our limitation of our power and authority. We spend a lot of time

doing that. I think we do an okay job and try our best to come to a resolution. If nothing else, being able to explain what the law says and what we have the authority and power to do.

Sen. Dever: We all have little tolerance for child abuse, however, if a mistake is made, I'm curious, how much time a child is likely to be separated from their parents before that's determined.

Cairn: The process is that if law enforcement or if someone believes a child is in serious danger, law enforcement can remove that child from the home. But the court has to be involved; within 96 hours the court has to decide whether or not the removal is okay. Normally, the longest would be 96 hours, but it's usually shorter than that.

Sen. Dever: Then the court would make a determination to continue the assessment?

Cairn: To continue with the child being out of home care or foster care or going home right away.

Sen. Dever: Are the courts likely to err on the side of caution?

Cairn: It's been my impression, that the courts in North Dakota, stick very closely to the requirements of the juvenile court statutes--about what needs to be proved for deprivation. Some of the social workers would say they're too strict, but I've never heard the complaint that they place children in foster care too soon.

There was no further testimony, however, Chairman Lee asked Mr. Traynor if there was any comment from the county's point of view.

Terry Traynor, Association of Counties: The position of the county directors was like the department. Training is always good, this seems to follow policy and if it's the wish of the legislature to put it in statute, they're all for it.

Sen. Dever: Would your feeling be different if there was a penalty provision in the bill?

Traynor: Penalty for failing to advise them? I guess we probably would, and reassess that position but I would suspect we would have a different position.

Sen. Dever: Not that I'm suggesting that there should be, I'm just curious if you feel that strongly about how well trained your people are and how they carry through with it.

Traynor: I think the department provides good training, ultimately they're supervising, they're writing the rules and providing the training. If a mistake is made, I would hope to see a well-meaning social worker be penalized just because they didn't have adequate training or information. I think it's more of a system issue than an individual person.

There was no further testimony on HB 1267.

Senator Lyson moved DO PASS, seconded by Senator Warner.

Sen. Lyson: This bill would only enforce the policy and procedures as being followed at this point. So I don't see any problem with the bill. When human services got this dumped on them many years ago, there were a lot of mistakes made, not only by them but by schools, law enforcement, everybody else. So there were some things that fell through the cracks. But as it went through the years, it got much stronger and a much better system. Normally what happens, and I've done many of these investigations on complaints, its mostly lack of information and possibly from the parent who thought they may not have gotten the right information--so they talk to somebody else who gave them more information, and pretty soon the molehill became a really big hill. These people weren't lying, it was absolutely how they felt, but they didn't have the full story and in some cases, don't want it.

Chairman Lee: We found that is other cases, too. There's always, at least, one other side to the story and we need to see the whole picture. My only objection to the bill is I think it's part of a feel-good deal that's already in policy. It isn't going to matter if we pass it or not, it seems redundant.

Sen. Lyson: It is, but it supports the group that's doing it, to say it's law.

Chairman Lee: The whole thing is that child protective services people are supposed to have the best interest of the child in mind. And if there will be anybody erring, they're going to err on the side of pulling the kid out of the circumstances they're in while investigating if there's really a problem.

VOTE: 4 yeas, 0 nays, 1 absent Carrier Senator Warner

Date: 2-23-
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1267

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Sen Lyson

Seconded By

Sen Warner

Senators
Sen. Judy Lee - Chairman
Sen. Dick Dever - Vice Chairman
Sen. Richard Brown
Sen. Stanley Lyson

Yes No

✓
✓
absent
✓

Senators
Sen. John Warner

Yes No

✓

Total (Yes)

4

No

0

Absent

1

Floor Assignment

Sen. Warner

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

REPORT OF STANDING COMMITTEE (410)
February 23, 2005 1:02 p.m.

Module No: SR-33-3481
Carrier: Warner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1267, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends DO PASS (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1267 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1267

House Human Services Committee

HB1267

January 17, 2005

Chairman Price and members of the House Human Services Committee, I am Gladys Cairns. I serve as the administrator of child protection services for the Department of Human Services. I am here today to provide testimony on HB 1267 and offer an amendment for a word change.

In June of 2003 the National Child Abuse and Prevention And Treatment Act, which is the model act for our child abuse and neglect law, was amended. The amendments required several new provisions. North Dakota must certify that we have all 22 provisions in effect. Two of the new provisions correspond with the offered amendments to the North Dakota child abuse and neglect law in House bill 1267. Those provisions are:

“(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;”

For your review, I have attached the policy developed to meet the first of these two provisions.

I have attached for your review, a copy of a pamphlet entitled, “What Happens Next? A Guide to the North Dakota Child Protection Services”, which is provided to the caregiver in a report of suspected child abuse or neglect.

I have also attached the outline for the curriculum we now use for the training of social workers who provide child welfare services in North Dakota. We contract with the University of North Dakota for this training.

We do not currently provide training specifically on the fourth amendment of the Constitution of the United States or section 8 of article I of the Constitution of North Dakota. Nor do we currently provide training to the social workers on the requirements for law enforcement officers on legal search or seizure.

Attached to this testimony is a fact sheet that provides you with information on North Dakota Child Protection Services.

I am asking the committee to consider an amendment to change the word "investigation" to "assessment" in lines 9 and 14. The law that this bill amends requires the department to "initiate an assessment, or cause an assessment, of any report of child abuse or neglect...". The change from investigation to assessment happened in the '95 legislative session as a result of an interim study.

I would be pleased to answer any questions the committee members may have. Thank you.

Attachment 1 -- policy

Attachment 2 -- "What Happens Next?"

Attachment 3 -- Training Curriculum

Attachment 4 -- CPS Fact Sheet

CHILD ABUSE AND NEGLECT
ASSESSMENT TECHNIQUES

Attachment 1

North Dakota Department
of Human Services Manual

Division 20
Program 600

Service 640
Chapter 04

04-03-05-01 Advisement of Concerns Reported

The social worker completing a child protective services assessment shall, at the initial time of face-to-face contact with the individual subject of a report of suspected child abuse and neglect, advise the individual of the concerns reported. Because detailed information is often still being identified throughout the assessment process, the information provided at this initial time will be general in nature. For example – "We are responding to a report expressing concern of physical abuse of Joey" or "The concern reported to us is lack of adequate supervision of your children".

04-03-05-01-03 Advisement of Concerns When Subject Unknown

The CPS social worker may not know at the outset of an assessment who, if anyone, has caused the suspected child maltreatment. Therefore, the Social Worker in these cases should provide such advisement to the parent(s), guardian(s), or adult caretaker(s) in the child's home

04-03-05-01-05 Advisement of Concerns of Serious Physical Abuse or Sexual Abuse

In fulfilling this policy of providing information to subjects of a child abuse and neglect assessment, we should be careful not to compromise the cps assessment or a joint or a concurrent criminal investigation that may lead to criminal charges against a perpetrator of serious child maltreatment. In cases alleging severe physical abuse or sexual abuse, for example, it is critical that CPS and law enforcement investigations be either jointly conducted or at the least carefully coordinated. The law enforcement investigation and the CPS assessment of cases involving alleged perpetrators of serious crimes against children should be synchronized to be sure that criminal investigations are not undermined. Synchronizing our efforts will help ensure that:

- relevant evidence of offenses is not concealed, compromised or destroyed;
- child victims are not unduly influenced to give or not give information to CPS or law enforcement investigators; and
- no actions are taken that would place children at greater risk.

Attachment 2 125

WHAT HAPPENS NEXT?

**A guide to the
NORTH DAKOTA
CHILD PROTECTION SERVICES**

This guide is made available by
NORTH DAKOTA CHILD PROTECTION SERVICES
CHILDREN AND FAMILY SERVICES
North Dakota Department of Human Services
600 E. Boulevard Avenue
Bismarck, North Dakota 58505-0250

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A NOTE ABOUT THIS GUIDE

This guide was designed to help you understand what happens during a child protection service assessment. It is not uncommon to feel angry, scared, helpless or alone. Knowing what to expect can make it less difficult.

The purpose of this pamphlet is to provide answers to the questions which are asked most often after a report of suspected child abuse or neglect has been received by child protection services.

WHAT IS CHILD PROTECTION SERVICES (CPS)?

The purpose of the child abuse or neglect law (North Dakota Century Code 50-25.1) "is to protect the health and welfare of children by encouraging the reporting of children who are known to be or suspected of being abused or neglected; the providing of adequate services for the protection and treatment of abused and neglected children and to protect them from further harm."

Each county social service department in the state (through CPS) is responsible for receiving reports of suspected child abuse or neglect. The county social worker is responsible for assessing the report. At the conclusion of the assessment, a decision will be made whether services are required to provide for the protection and treatment of an abused or neglected child.

It is important to remember it is the role of CPS to help assure children are safe from harm and assist parents and families in working through problems that may be occurring and obtaining help that may be needed. **A report of suspected child abuse or neglect is only a statement that someone is concerned for a child's welfare and the family's well being.**

WHO MADE THE REPORT TO CPS?

According to North Dakota law any person may report suspected child abuse or neglect to CPS. Certain professionals are **required** by law to make a report if they suspect child abuse or neglect (for example, social workers, teachers, police, child care workers, doctors). These professionals can face criminal penalties if they fail to report their suspicions.

The name of the person who made the report **MUST REMAIN CONFIDENTIAL BY LAW**. In fact, the social worker can be charged with a class B misdemeanor if she or he discloses, to the caregiver (subject), who made the report of suspected child abuse or neglect.

WHAT IS CHILD ABUSE OR NEGLECT?

When a person responsible for a child's health and welfare causes physical or mental injury to a child, engages in sexual activity with a child, deprives a child of necessities or allows someone else to harm a child, that is abuse or neglect.

DEFINITIONS

ABUSE:

Any act which, regardless of intent, **results in a non-accidental injury**. Inflicted physical injury most often represents unreasonably severe corporal punishment. This usually happens when a caregiver is frustrated or angry and strikes, shakes, or throws the child. Intentional deliberate assault such as burning, biting, cutting and twisting, etc. are also included.

PSYCHOLOGICAL MALTREATMENT:

The emotional consequences of **patterns of behavior** by a caregiver that involves **rejecting, isolating, threatening, ignoring and/or exposing a child to negative influences**, regardless of the adult's intention in doing so. Extreme discipline, confinement such as being locked in a closet, excessive control of a child's actions that inhibit growth and development, and exposure to domestic violence are additional examples.

Psychological maltreatment can be seen as a self-fulfilling prophecy. If a child is degraded enough, the child will begin to live up to the image communicated by the caregiver.

SEXUAL ABUSE:

Sexual abuse involves sexual contact between a child and an adult or significantly older, more powerful person. Sexual abuse may include other exploitative behaviors such as inappropriate sexual comments made to a child, taking or showing sexually explicit photographs or exposing a child to pornography or adult sexual activity.

NEGLECT:

Neglect includes inadequate supervision, inadequate physical environment, nutrition, clothing and hygiene, and medical or educational neglect.

Inadequate Supervision:

Inadequate supervision is based on the premise that the ultimate responsibility for the safety, care, well being, and behavior of dependent children remains with the parent, whether they are present to personally supervise or not. Parents are responsible to arrange for appropriate childcare in their absence. Children eight years of age or under should be supervised at all times by an adult or responsible care giver. Children at age twelve can act as caregivers, however, it is recommended they complete an approved childcare training course. Children under 15 should not be left overnight.

Inadequate Shelter:

Physical environment examines the condition of the home or surroundings for safety. If conditions such as broken glass, spoiled food, feces, drugs accessible to a child, inadequate sewage disposal, inadequate or unsafe heat, accessible chemicals are present in the home, the home presents risk of harm to children.

Inadequate Nutrition:

Nutritional neglect is considered when a child is not provided adequate nutrition and nourishment.

Inadequate Clothing and Hygiene:

Neglect is considered when there is failure to provide clothing adequate for the weather, when lack of cleanliness causes the child to be offensive to others or ostracized because of body odor.

Lack of Medical Care:

Medical neglect is considered when parents fail to seek medical or dental treatment for health problems or conditions if left untreated could present danger to the child.

Educational Neglect:

Educational neglect is the failure to make arrangements for a child's education whether it is public schooling, private schooling or home schooling.

WHAT DOES A CHILD PROTECTION SERVICES SOCIAL WORKER DO?

When the county social services receives a report of suspected child abuse or neglect, a trained Child Protection Services (CPS) social worker is assigned to assess the concerns in the report. The usual first steps are to assess for immediate safety of the child, check for past or current reports and contact persons who can give more information to help assess the child's safety and the risk of future maltreatment. The social worker may talk to a child at school and visit the family at home. According to North Dakota law the CPS social worker may interview a child without the consent of a person responsible for the child's welfare, if abuse or neglect is suspected. The goal of any effective response to a child abuse or neglect report is to protect the child.

WILL A CHILD BE TAKEN FROM THE HOME?

The goal of CPS is to keep a family together unless a child is in danger and cannot be protected in the home. If a child is in immediate danger, the child may be placed in protective custody by the court.

Children may be placed in temporary protective custody or shelter care only by order of the court. Police officers and doctors also have limited authority to take emergency custody of children who are in danger. Parents or legal guardians have a right to participate in a shelter care hearing, which is scheduled within the following 96 hours.

WILL LAW ENFORCEMENT BE INVOLVED?

Law enforcement and CPS often work together during the assessment of a CPS report. If the report of suspected child abuse or neglect alleges a violation of a criminal statute involving sexual or physical abuse, North Dakota law requires coordination between CPS and law enforcement.

WHAT COULD BE THE OUTCOME DECISION OF THE ASSESSMENT?

The outcome decision of the CPS assessment is made with the assistance of a local multi-disciplinary child protection team in most instances. The CPS social worker, and supervisor participate in the decision-making, but the regional CPS supervisor is the person with responsibility for the decision.

Upon completion of the assessment of the report of suspected 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. The decision is either:

1. No services required
2. Services required

When a decision is made that **no services are required**, it is a decision that reflects the belief that a **child is not abused or neglected** as defined in the law. Services may be offered or recommended to the family even though no services are required for the protection of a child.

When a decision is made that **services are required**, it is a decision that reflects the belief that a **child is abused or neglected** as defined in the law.

WHAT HAPPENS TO THE ASSESSMENT INFORMATION?

All information gathered during the assessment is confidential. However, the child abuse and neglect law outlines authorized disclosure of information to certain persons. These include, but are not limited to; physicians, persons who are authorized to place a child in protective custody, child protection teams, public officials and the court.

State law requires that a child abuse information index be maintained for all decisions that **"services are required"**. The information is retained for 10 years and remains confidential. Information can be released with written authorization from the person who is the subject of the report.

When the decision is "no services required", the information is **not** kept on the index.

REFERRAL FOR CHILDREN UNDER AGE 3

After a child protection services assessment is completed and a decision has been made that services are required for the protection and treatment of a child, a federal law requires the child protection social worker to refer children under the age of three years for an Early Intervention Services evaluation. This means that the child protection services social worker will send your name, address, and phone number (if you have one) to a representative of Early Intervention Services, who will contact you about scheduling an evaluation of your child's strengths and needs. This service is voluntary and available at no cost to families.

APPEAL PROCEDURE

The subject (caregiver) of a report of suspected child abuse or neglect who is aggrieved by the decision of the assessment may file an appeal. Only the subject of a report may request an appeal.

An appeal of the decision of **"services required"** means the subject believes the decision should have been "no services are required". An appeal of the decision of **"no services required"** is a belief that the decision should be that "services are required."

A completed form requesting an appeal hearing must be received by the appeals office at the State Capitol within 30 days after the date of the notification of the decision. Information on the procedures for an appeal and copies of the form to file an appeal are available from the county social service office. The rules governing this process can be found in Administrative Code Ch. 75-03-18.

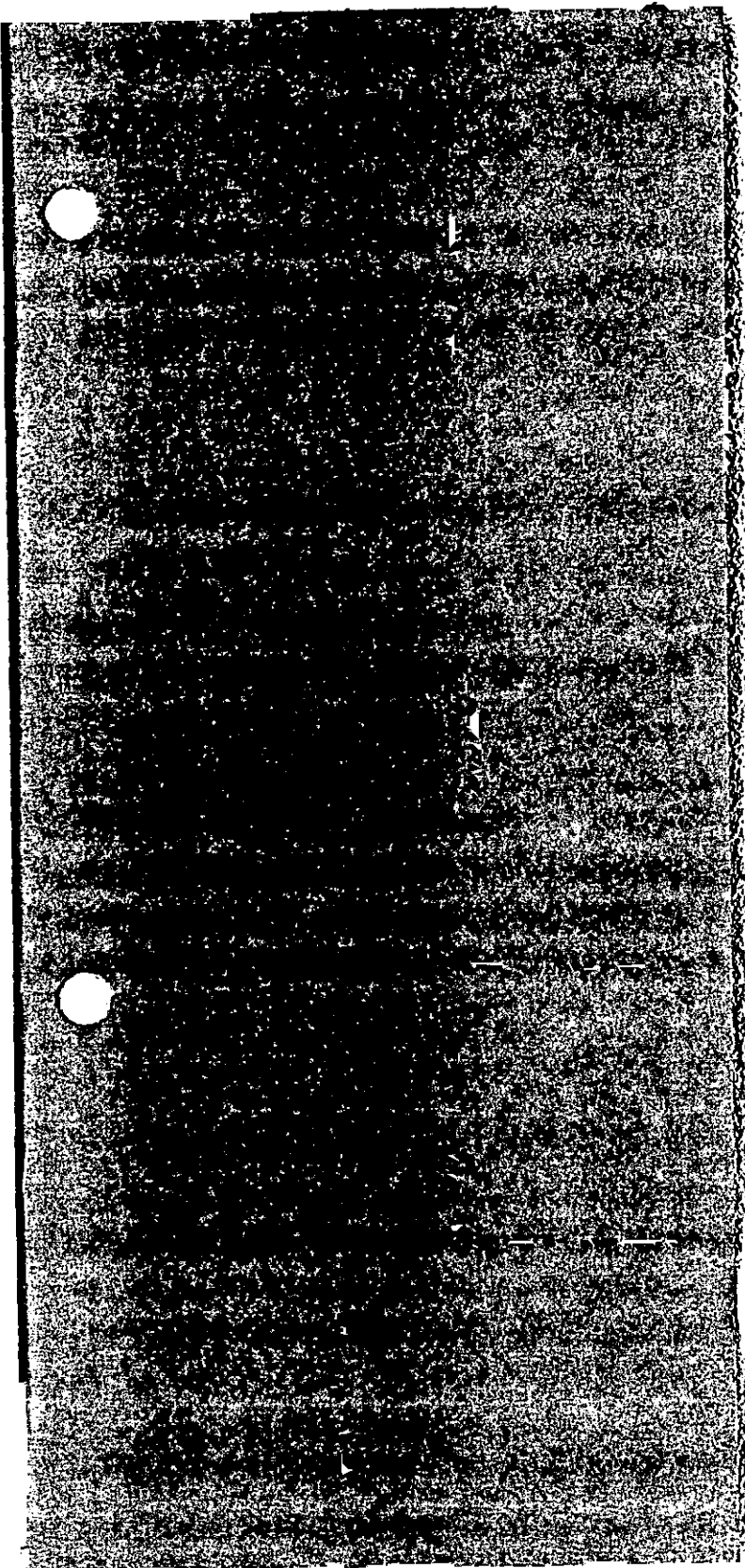
GRIEVANCE MEETING

The subject of a report of suspected child abuse neglect who is aggrieved by the conduct of the assessment may request a grievance meeting with the County Social Service Office. The request must take place within 10 days from receiving the written notification of the case decision.

Information on the procedures for a grievance meeting and copies of the form to use to file are available from the county social service office. The rules governing this process can be found in Administrative Code Ch. 75-03-18.1.

If you have any other questions contact your
County Social Services office.

NOTES:



Child Welfare Certification Training Week I

- I. Child Welfare Values and Beliefs
 - A. Child Welfare Value Conflicts
 1. Parens Patriae vs. Presumptive Parental Rights
 2. The impact of personal, societal and cultural values
 3. Personal beliefs (values exercise)
 4. Child Protective Services and Family Centered Services: Working Together
 - B. Values of Child Protective Services of North Dakota (CPS Policy Manual 640-01-01-01)
 1. Reducing the impact of personal values and beliefs on the decision making process
 2. Using law and policy to guide decision making
 3. CPS Critical Social Work Activities & Outcomes – an overview
- II. CPS Authority
 - A. Child Abuse and Neglect Law – NDCC 50-25.1
 - B. Uniform Juvenile Court Act (definition of neglect)
 - C. CPS Administrative Rules
 - D. Policy Manual highlights
- III. Introduction to CPS Responsibilities & Critical Outcomes
 - A. Icebreaker
 1. Prior to coming to your current job, what had you heard about CPS social work (county or tribal)? What, if anything, have you discovered that is different from what you first thought?
 2. What have you found that you like about working with children who have been reported as abused or neglected? What have you found that you like about working with their parents? (Skills?)
 3. What would be your major challenges (or fears) of working with families and children as a CPS Assessment Social Worker?
 - B. Video: "Scared Silent - Exposing and Ending Child Abuse"
 - C. Responsibilities of a Social Worker with Child Protection Services
 1. CPS Policy Manual chapter 01-15-03
 - D. CPS Critical Social Work Activities & Outcomes
 - E. The goal of CPS
 - F. Assessing for protection not investigating for prosecution
 - G. North Dakota DHS: The Purpose of CPS
 - H. CPS Assessment Process flowchart
- IV. Child Abuse and Neglect Factors-CPS Policy Manual Chapter 05-07
 - A. Neglect factors
 1. Video: "Nobody Home"
 - a. Process by identifying risk factors in the video
 2. Parental behaviors, characteristics or situations leading to neglect
 3. What do parents who neglect need?

- B. Psychological Maltreatment factors
 - 1. Video: "China Doll" or other appropriate video
 - 2. Feelings exercise
 - 3. Small group to large group: identify risk factors from videos or actual cases and explain to a parent why it's inappropriate (short interview)
- C. Physical Abuse factors
 - 1. Types of injuries and risk factors
 - 2. Video: "The Diary" or other appropriate video
- D. Child Sexual Abuse factors
 - 1. Risk factors and reference/review Chapter 03
 - 2. Video: "The Necklace" or other appropriate video
- V. Domestic Violence in CPS cases
 - 1. The Relationship Between Domestic Violence and Child Abuse and Neglect
 - 2. Dynamics of Domestic Violence
 - 3. Identifying Domestic Violence
- VI. Intake
 - A. Gathering Information
 - 1. Info from the Reporter
 - a. Fishbowl exercise of interviewing a reporter – 3 or 4 small groups
 - b. Write the 960
 - B. Analyze Report Data
 - 1. The Category System
 - 2. Administrative Assessments and Assessments Terminated in Progress
 - C. Assess for Safety of Child(ren) and Social Worker
- VII. Initial Assessment
 - A. Plan the Initial Assessment
 - 1. Elements of the Plan
 - B. Gather Data
 - 1. Assessment Techniques (CPS Policy Manual Chapter 4)
 - C. Analyze Data
 - 1. Safety/Strength/Risk Assessment
 - a. Purpose of the SSRA
 - b. Factor review-CPS Policy Manual Chapter 05-09
 - (1) Assignment to have this read before training day
 - c. Connect SSRA to all aspects of Child Welfare Services including agency follow up services, court documentation/decisions, and foster care services
 - d. Exercise: Complete a SSRA from a video ("Nobody's Home") or case scenario (emphasize strength based assessment)
 - 2. Practice interviews
 - a. Role plays with social worker, client and observer (develop something from videos)

VIII. Prepare the Written Assessment

- A. In the computer lab: practice at using report writing format on a PC
 - 1. DHS forms on the internet
- B. Five Criteria for a Well Written CPS Report
- C. Case Plan and Services
- D. Completing the 961
- E. Affidavit of Mailing and letter to the client

IX. Child Protection Teams

- A. Roles of team members
- B. Team decisions and responsibilities

X. Appeals Rights and Grievance Procedures

XI. CPS Case Reviews

XII. Destruction of Files

XIII. Procedures in Out-Of-Home Assessments

Child Welfare Certification Training/Wraparound Certification Training Week II
TRAINING AGENDA

Monday

10:00am Introductions
10:15 Purpose of Wraparound/Strengths Based Planning
10:45 The Wraparound Process
Referral and Administration
11:45 Lunch Break
1:00pm Values, Beliefs and Principles
2:30 Culture
3:30 Change
4:30 End of Training Day

Tuesday

8:30am Meeting with Families - Relationship Building
10:00 The Struggle of the Discipline
11:00 Paradigm Shifts/Reframing
11:45 Lunch Break
12:30pm Strengths Inventory
1:30 Family Assessment Exercises
4:30 End of Training Day

Wednesday

8:30am The Team Process
Conflict Management
Consensus
11:45 Lunch Break
12:30pm Child and Family Team Meeting
Child and Family Team Video
Child and Family Team Exercises
4:30 End of Training Day

Thursday

8:30am Writing Service Plans
10:30 Goal Writing Exercises
11:45 Lunch Break
12:30pm Goal Writing Exercises
2:30 Safety Planning
3:30 Panel Discussion
4:30 End of Training Day

Friday

8:30am Single Plan of Care Computer Application
4:30pm End of Training Day

CHILD WELFARE CERTIFICATION TRAINING, WEEK III

AGENDA

Monday

10:30am Juvenile Court
12:30pm Juvenile Court
4:30 End of Day

Tuesday

8:30am Adoption and Safe Families Act (ASFA)
 Multi-Ethnic Placement Act (MEPA-IEPA)
 Chafee Law (Independent Living)
 Professional Risk Management
11:45 Lunch Break
12:30pm Indian Child Welfare Act
4:30 End of Day

Wednesday

8:30am Cultural Issues
10:30 Roles of the States Attorney
 Considerations in Providing Testimony
11:45 Lunch Break
12:30pm Considerations in Providing Testimony
4:30pm End of Week

CHILD WELFARE CERTIFICATION TRAINING, WEEK IV

AGENDA

Monday

9:30am	CFSR Review
10:30	Foster Care Licensing
11:30	Lunch
12:30pm	Recruitment and Retention
2:30	Concurrent Planning/Permanency Planning
3:30	Foster/Adopt PRIDE
5:00	End of Day

Tuesday

8:30am	Foster/Adopt PRIDE
9:30	Foster Home Assessment
11:30	Lunch Break
12:30pm	Attachment and Separation
4:30	End of Day

Wednesday

8:30am	Placement Considerations
11:30	Lunch Break
12:30pm	Special Needs Adoption (AASK)
2:00	Foster Parent Panel
3:00	Graduation



Child Protection Services

Purpose of Child Protection Services (NDCC 50-25.1)

- Protecting the health and welfare of children by encouraging the reporting of children who are known to be or suspected of being abused or neglected;
- Providing adequate services for the protection and treatment of abused and neglected children and protecting them from further harm;
- Identifying the causes and circumstances that contribute to children's deaths; and recommending changes in policy, practices, and law to prevent children's deaths.

Summary: A child protection service (cps) assessment is a fact-finding process designed to provide information in order to determine whether services are required to provide for the protection and treatment of an abused or neglected child. Each report of suspected child abuse and neglect is assessed. The level and type of assessment differs according to the concerns reported. CPS assessments are completed by social workers employed by county social service offices. The County Social Service Boards act as designees of the N.D. Department of Human Services, and the department provides supervision and direction through policies, procedures, and technical assistance from the central and regional offices.

	CY1999	CY2000	CY2001	CY2002	CY2003
Full Assessments	4147	4055	4029	4109	3903
Administrative Assessments or Referrals	2082	2100	2505	2938	3345
Total Reports	6229	6155	6534	7047	7248

Child Abuse and Neglect Prevention Activities

Each year North Dakota directs prevention activities through the administration of federal grants. Some of the activities/programs funded include:

- **Prevent Child Abuse North Dakota:** is a statewide non-profit organization dedicated to the prevention of all types of child maltreatment
- **Nurturing Parenting Programs:** are validated, family-centered programs designed to build nurturing skills as alternatives to abusive parenting attitudes and practices; serve families in seven counties; exist to stop the generational cycle of child abuse and to reduce recidivism
- **Parenting the First Year:** is a 12-month, age-paced educational publication mailed to parents after the birth of a baby; created with the N.D. Department of Health
- **Family/Parenting Resource Centers:** work to strengthen families by providing parenting education and support; currently six exist
- **Circle of Parents:** are mutual self-help parent support groups that strengthen families
- **Child Sexual Abuse Prevention Campaign:** raises awareness of the effects of child molestation and ways to prevent sexual abuse from happening
- **N.D. Child Fatality Review Panel:** reviews all in-state child deaths for preventability

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June 9, 2003

Fourth Amendment Training Becomes Mandatory for Social Workers in Texas

Texas homeschoolers and families will be better protected from Child Protective Services (CPS) workers than ever before.

Home School Legal Defense Association's recommend amendment requiring CPS training in constitutional rights has become law. The language states, "It is the intent of the Legislature that the training curriculum for CPS Caseworkers funded out of Strategy A.1.2, Child and Family Services, include instruction in the Fourth Amendment to the U.S. Constitution and parents' rights."

This means social workers in Texas will have to receive specific training in respecting the constitutional rights of the families they are investigating. Most social workers we deal with who have received an anonymous accusation against a homeschool family routinely ignore the family's parental and due process rights.

Under this new law, CPS workers will be trained in their duty to follow the 4th amendment which requires them to get a warrant from a judge based on credible evidence BEFORE they can enter a home. This training will increase their liability in that they will be without excuse to claim they did not know they were supposed to protect families' rights.

We at HSLDA believe that abuse by the Child Protective Services (CPS) is the single greatest threat to homeschoolers in Texas. We handle member investigations, based on false allegations, by CPS workers on a regular basis.

We have worked on the federal level with Congress to successfully pass two important amendments to the Child Abuse Treatment and Prevention Act that will curtail social worker abuses. One of those federal amendments requires that all states create procedures mandating social workers around the country to be specifically trained in their duty to protect the statutory and constitutional rights of those they are investigating. This requirement is long overdue!

Texas is the first state to implement this new federal mandate by passing this new CPS training law.

HSLDA Legislative Counsel Tom Sanders and Senior Counsel Chris Klicka worked during this year's legislative session to get House Bill 1752, a child welfare reform bill, passed in the Texas legislature. Many of you made calls in support of this bill. Yet the tremendous opposition by the social worker lobby resulted in its defeat.

Tom Sanders worked with Representative Hupp and Budget Committee Chairman Representative Heflin, however, to quietly slip HSLDA's CPS training language into H.B. 1, the General Appropriations bill almost two months ago.

State Laws

A summary of the legal options for homeschooling in every state

Organizations

Homeschool organizations in your neighborhood or across the world

Cases

Legal contacts and cases that HSLDA is involved with

Legislation

State and state legislation relating to homeschooling

Headlines

News and updates on legal contacts and other issues that affect homeschoolers

Member Resources

State forms and other resources along with an online form to contact your staff

House Bill 1267 relating to child protective services
Testimony of Representative Margaret Sitte,
January 17, 2005

Madame chairwoman and members of the committee, for the record, I am Representative Margaret Sitte from District 35 in Bismarck, sponsor of House Bill 1267. At the request of a constituent, I filed this bill which codifies into North Dakota statute the requirements found in the federal Keeping Children and Families Safe Act of 2003. (P.L. 108-36) President Bush signed this act into law on June 25, 2003.

During Congressional hearings on this act, the committee heard concerns about how most families were never informed of the specific allegations made against them at the time of child abuse allegations. The federal law requires all 50 states to do the following:

- Require child protective services workers to be trained in their duty to protect the statutory and constitutional rights of those they are investigating;
- Require child protective services personnel to advise individuals subject to a child abuse and neglect investigation of the complaint or allegation made against them.

To date, at least 10 other states, Illinois, Tennessee, Virginia, Indiana, Michigan, Iowa, Texas, Arizona, Oklahoma and California, have passed laws to codify the federal language. Codifying them into North Dakota statute is wise and reasonable as federal laws change, and we should have these protections for parents in North Dakota.

The bill simply states that at the initial time of contact with an individual who is the subject of a child abuse or neglect investigation, the department shall notify the individual of the specific complaints or allegations made against him or her.

Paragraph 2 would ensure that all child protective services employees are trained in their legal duties to protect the constitutional and statutory rights of children and families from the first contact, during the investigation, through treatment and closure of the case. The training must include instruction on the Fourth Amendment to the Constitution of the United States: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

Training must also include Section 8 of Article I of the Constitution of North Dakota, which is attached, the legal rights of parents, and the requirement for legal search and seizure by a law enforcement officer.

I urge you to give a favorable recommendation to this bill to help North Dakota families get the protections they deserve.

(iv) by inserting after clause (iv) (as so redesignated), the following:

"(v) triage procedures for the appropriate referral of a child ~~not at risk of~~ imminent harm to a community organization or voluntary preventive service";

(v) in clause (viii)(II) (as so redesignated), by striking ", having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect" and inserting ", as described in clause (ix)";

(vi) by inserting after clause (viii) (as so redesignated), the following:

"(ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect";

(vii) in clause (xiii) (as so redesignated)—

(I) by inserting "who has received training appropriate to that role, and" after "guardian ad litem,"; and

(II) by inserting "who has received training appropriate to that role" after "advocate";

(viii) in clause (xv) (as so redesignated), by striking "to be effective not later than 2 years after the date of enactment of this section";

(ix) in clause (xvi) (as so redesignated)—

(I) by striking "to be effective not later than 2 years after the date of enactment of this section"; and

(II) by striking "and" at the end;

(x) in clause (xvii) (as so redesignated), by striking "clause (xvi)" each place that such appears and inserting "clause (xvi)"; and

(xi) by adding at the end the following:

"(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

"(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of the children and families from the initial time of contact during investigation through treatment;

"(xx) provisions and procedures for improving the training, retention, and supervision of caseworkers;

ARTICLE I

DECLARATION OF RIGHTS

Section 1. All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

Section 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Section 4. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

Section 5. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

Section 6. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

Section 7. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

Section 8. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

Section 9. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.

Section 10. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information. The legislative assembly may change, regulate or abolish the grand jury system.

Section 11. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1267

Page 1, line 9, replace "investigation" with "assessment"

Page 1, line 14, replace "investigation" with "assessment"

Renumber accordingly

House Bill 1267 relating to child protective services
Testimony of Representative Margaret Sitte,
February 23, 2005

Madame Chairwoman and members of the committee, I am Representative Margaret Sitte from District 35 in Bismarck, sponsor of House Bill 1267. At the request of a constituent, I filed this bill which codifies into North Dakota statute the requirements found in the federal Keeping Children and Families Safe Act of 2003. (P.L. 108-36) President Bush signed this act into law on June 25, 2003.

During Congressional hearings on this act, the committee heard concerns from many families who were never informed of the specific allegations made against them at the time of child abuse investigations. The federal law requires all 50 states to do the following:

- Require child protective services personnel to advise individuals subject to a child abuse and neglect investigation of the complaint or allegation made against them;
- Require that child protective services workers be trained in their duty to protect the legal rights and safety of the children from initial contact through treatment.

To date, at least 10 other states, Illinois, Tennessee, Virginia, Indiana, Michigan, Iowa, Texas, Arizona, Oklahoma and California, have passed laws to codify the federal language. Codifying it into North Dakota statute is wise and reasonable because federal laws change, and these protections should remain in place for parents in North Dakota.

The bill simply states that at the initial time of contact with an individual who is the subject of a child abuse or neglect assessment, the department shall notify the individual of the specific complaints or allegations made against him or her. The federal law says "investigation," but the House Human Services Committee amended the bill to say "assessment."

Paragraph 2 would ensure that all child protective services employees receive training regarding their legal duties. To clarify "legal duties," I had the bill drafted to reflect wording used in other states: "legal duties to protect the constitutional and statutory rights of children and families." Most other states also say that training must include instruction on the Fourth Amendment to the Constitution, which protects the right of people to be secure in their persons, and houses against unreasonable searches and seizures, but again that wording was amended out by the House committee.

I was contacted by a different constituent two years ago who related two incidents from her church in which child protective services had investigated fathers for disciplining their children in public and in which, even though the fathers were exonerated, the ensuing controversy led to divorce. She called me in tears asking me why the state is trying to tear families apart. I have also received an email that I would like to share in part.

I urge you to give a favorable recommendation to this bill to help North Dakota families get the protections they deserve.

Sitte, Margaret A.

From: Koppelman, Kim A.
Sent: Thursday, February 10, 2005 3:37 PM
To: Sitte, Margaret A.
Subject: FW: CPS bill

Margaret:

F.Y.I.:

From: D F MCMAHON [mailto:dfmcmahon1@msn.com]
Sent: Tuesday, February 08, 2005 6:29 PM
To: Koppelman, Kim A.
Subject: Re: CPS bill

Dear Mr. Koppelman-

Absolutely, and thank you!

----- Original Message -----

From: Koppelman, Kim A.
To: D F MCMAHON
Sent: Tuesday, February 08, 2005 1:52 PM
Subject: RE: CPS bill

Dear Sheri;

I really appreciate your input on this important. issue.

May I share your e mail with others interested in it?

Thank you.

Rep. Kim Koppelman
North Dakota

Note: My new e mail address is: kkoppelman@state.nd.us

From: D F MCMAHON [mailto:dfmcmahon1@msn.com]
Sent: Wednesday, January 26, 2005 2:51 AM
To: Koppelman, Kim A.
Subject: CPS bill

Dear Mr. Koppelman-

I read with great interest the text of the bill concerning child protective services, including requirements that CPS workers receive training in areas such as search and seizure under the Constitution. I expect we come from different sides of the fence politically (I am a progressive liberal in many ways, and generally vote Democrat) I strongly favor this legislation.

2/10/2005

Until I became embroiled in the CPS system five years ago, I never would have dreamed that the things that happened to my family could possibly occur in this country. I was a strong, dedicated parent, earning my way through graduate school as a teaching assistant while raising a child with a disability. When I saw my son's teacher refusing to carry out simple recommendations that were properly documented by medical experts, generally showing lack of tolerance for his disability, I spoke up. A difficult situation became more difficult, jeopardizing my son. The response I got was to see my son taken from my home without notice or warning one afternoon. Based on claims I was "complaining" about my son's education, he was placed in shelter care without hearing by the court for three days. Without legal authority, the CPS worker ordered the school principal not to allow me on school property--which I learned when I went to the school to request copies of school records that would be relevant. My son had been receiving psychiatric services from SEHSC. I also went to SEHSC to request copies of my son's treatment records. I was told I was "not his legal guardian" and was refused those records. It took three years of persistent effort before SEHSC agreed that I never should have been denied access to my son's medical records at SEHSC while my son was in temporary shelter care pending court proceedings. I was assigned a court appointed attorney. I did not learn until a year and a half later that the legal proceedings included discovery processes and that I should have had an opportunity to view the "evidence" compiled by the state. I did provide my attorney with extensive, well-documented information to counter the allegations of which I was informed. He never read this material. He freely admitted that he didn't know anything about the educational issues that were at the core of the CPS case but said he didn't think they mattered anyway. They did. When I pursued a successful complaint against the school, my son quite magically was returned to me.

A year later, it started all over again. This time it took 2.5 years to extricate my son from the system. Social workers agreed he should be home, but couldn't figure out how to make that happen. At the end of his second year in foster care, his father died from a lengthy illness. There were long stretches during his father's illness when our son was simply not allowed to see his dad--his social worker wanted to allow visits, but his caregivers did not, and the social worker felt powerless to overrule the caregivers (whose trump card was simply to threaten to discharge him from their care, a prospect which put the social workers into a panic because that would mean searching for a placement again). The lawyer I had this time was better--but what I saw was that these court-appointed attorneys do not have the time to adequately defend their clients, and they are not prepared to untangle the bureaucratic chaos of child protective services. In the end, the most efficient way to get my son home turned out to be to ignore the lawyer and negotiate with the social workers by myself.

Since then I have become as much of an activist as I can. Over time I have collected copies of many of the service chapters that regulate CPS activities. They aren't very good at following their own rules. I've researched the issue considerably. Through various volunteer activities, I have met many parents dealing with similar situations. Yes, some children are in foster care because of meth-using parents and such, but many others simply should not be removed from their homes. Sometimes help is needed--but usually simple, concrete help--car repairs instead of family therapy, for example. (Such families are told they have to go to therapy. Then, when they have no way to get there, the court is somberly informed that the family is "uncooperative.") I've developed a method for assisting families. I'm not a professional, but I've learned to speak the language of social work and I know what the rules are. I read through the paperwork a parent gives me, compare what I see and what they tell me with standards for child welfare services, and write an analysis of the case and the services that have been provided. I put this in the form of a letter to the parent, who can then give it to his or her lawyer (who doesn't have the time to do this kind of research). In one case a mother who was threatened with losing custody of her 12 year old daughter got her daughter home to stay. In another case, a parent successfully appealed the administrative "services required" finding. Other parents seem to have been able to keep their kids with them, or achieve reunification faster, than is the case when the system has its way unchallenged.

In 2001 I participated in a national focus group for the purpose of developing a family guide to child welfare, since published by Georgetown University. Nationally, several groups have formed of parents challenging CPS practices, and I network with members of one of those groups.

The second time my son went into the system, the CPS worker who took custody had not spoken to me for 45 days. Her decision was based on "information" developed in the course of telephone conversations between various individuals our family was involved with. Much of that "information" was incorrect or incomplete. In some cases all parties involved denied being the original source of allegations.

My son was bounced from placement to placement, attending 4 schools in two years. In one placement belongings were stolen by another foster child; in another he was threatened by another foster child. In foster care, he experimented with marijuana, alcohol, and tobacco. He received psychiatric drugs at dosages 3 times the adult therapeutic dose; as a result of medications he became obese and developed chronic asthma, acid reflux disease, and joint problems. He is currently on MA and treating these secondary ailments costs MA considerably amounts of money. He was placed in locked seclusion time and time again--until JCAHO, DHS, and a private consumer rights organization investigated (magically removed from the place where this occurred).

Adding insult to injury, poor record-keeping on the part of social services resulted in the state seizing child-support dollars for many months when our son was not in foster care and the state had no claim on these funds. Attempts to resolve this through the child support enforcement unit brought the response, "I didn't have anything to do with this," otherwise known as pass the buck. There are medical bills supposedly covered by the child welfare system that were never paid.

Social services made numerous claims about my supposed "mental health issues." Parental evaluations were tainted by the fact that evaluators relied heavily on the information received from social services to begin with. Eventually, I obtained an independent evaluation based on my own records, that utterly contradicted an "evaluation" made at the same time based on social services records. But I still fight the biases and falsehoods that have been generated at one time or another in some agency's records, then transmitted to other agencies like a virus.

The damage that occurs as a result of separating families whose children are not in danger according to any reasonable estimate is horrendous. In our case, this started when my son was barely 10 and didn't stop until he was 14. When he came home, he was fatherless and I was a widow. We missed a huge portion of his childhood. He missed important milestones within our extended family. My own graduate degree hopes were ripped apart too completely to be patched back together again.

I do need to make a comment or two. People do not realize that when you become involved with CPS, you are dealing with at least 3 trajectories: juvenile court custody petitions, CPS as an administrative entity, and child support proceedings. Court appointed attorneys assist parents (and most parents who deal with CPS are poor enough to qualify for court-appointed representation) only with the custody aspects. Currently, a parent is allowed only 30 days for an administrative appeal of a "services required" finding. This deadline occurs at a time when a family is traumatized and facing the legal custody proceedings. It is also a time when parents encounter agencies that refuse to allow them access to records to which they still have a legal right. They are threatened with being labelled "uncooperative" if they appeal--yet if they don't appeal, the prosecutor will taunt them in court for that failure. Since parents have to obtain the appeal forms from CPS, they are likely--and it does happen--to be confronted by a CPS employee who wants to know what they think they're doing. They have no access to the standards on which to base an appeal--all they have is their gut feeling that something is very

wrong. Parents who have filed grievances have discovered that their purported right to a grievance hearing is a myth: "Oh, we resolve these issues internally," is all they are likely to ever hear. It is not fair and not realistic to expect a parent to pursue an administrative appeal at this time, without legal help.

Parents need to be given information about the standards on which CPS determinations are supposed to be based. Parents need to be given information about their rights, such as the right to be fully informed about, and be involved in, their child's health care and to have contact with their child's medical providers. Parents need a longer time in which to appeal administrative "services required" determinations.

Last, parents need access to the system that oversees guardians ad litem. There are signs of rampant problems with this system--the GALs are often not independent fact-finders, often not impartial, but the GAL system does not seem to have the capacity to address deficiencies where a particular GAL is concerned.

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Senate Human Services Committee

HB1267

February 23, 2005

Chairman Lee and members of the Senate Human Services Committee, I am Gladys Cairns. I serve as the administrator of child protection services for the Department of Human Services. I am here today to provide testimony on HB 1267.

In June of 2003 the National Child Abuse and Prevention And Treatment Act, which is the model act for our child abuse and neglect law, was amended. The amendments required several new provisions. North Dakota must certify that we have all 22 provisions in effect. We provide this certification annually when we write the Child abuse and Neglect plan. Two of the new provisions correspond with the offered amendments to the North Dakota child abuse and neglect law in House bill 1267. Those provisions are:

"(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;"

For your review, I have attached the policy developed to meet the first of these two provisions. If HB1267 passes we will propose amendments to the current rules for child abuse and neglect assessments.

I have attached for your review, a copy of a pamphlet entitled, "What Happens Next? A Guide to the North Dakota Child Protection Services", which is provided to the caregiver in a report of suspected child abuse or neglect.

I have also attached the outline for the curriculum we now use for the training of social workers who provide child welfare services in North Dakota. We contract with the University of North Dakota for this training.

Attached to this testimony is a fact sheet that provides you with information on North Dakota Child Protection Services.

I would be pleased to answer any questions the committee members may have. Thank you.

Attachment 1 -- policy

Attachment 2 --"What Happens Next?"

Attachment 3 -- Training Curriculum

Attachment 4 -- CPS Fact Sheet