

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2360

2005 SENATE HUMAN SERVICES

SB 2360

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2360

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 9, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-1940
Committee Clerk Signature <i>Cathy Minant</i>			

Minutes: **Chairman Lee** opened the hearing on SB 2360, relating to child abuse and neglect records and information. All Senators were present.

Susan Bosak, Public Affairs Officer at Merit Care Health Systems appeared in support of the bill. See attached testimony.

Senator Warner- On page 1, line 12-13, I have a question about what the costs normally are.

Susan- I haven't received any feedback from my clients regarding the costs, I could follow up with it if you would like.

Senator Lee- Does this tie in with the child advocacy legislation as far as providing information that may be helpful to the physician that may be working in the advocacy area?

Susan- Any of these laws being clarified would be very helpful in that area, the medical provider is still an employer of Merit Care. It would reduce the administrative burden, we would not want to disclose information unless it was permissive.

Krista Andrews, an attorney for the Department of Human Services appeared in support of the bill. See attached testimony and amendment.

Mike Mullen appeared before the committee- In North Dakota, we've had fewer problems with respect to disclosing information in connection with child abuse from health care providers.

Merit Care wants to make sure this kind of disclosure is permitted, this bill will clarify that.

Senator Lyson- I don't want people to get information unless they're sure abuse or neglect has happened, this bill is rather broad.

Senator Warner- On line 9, it talks about the course of assessment in child abuse or neglect, I assume there is probable cause there.

Susan- You need to fill out a report of suspected child abuse and neglect before an assessment is conducted. This does not expand the current law, it just makes some clarifications.

Gladys Cairns, the administrator for child protection with the Department of Human Services appeared before the committee. We need to have a report of child abuse, before the child abuse process starts. The analysis of the report helps determine what kind of service is needed. We need to look at how we can prevent future mistreatment.

Senator Lyson- My concern is if you get the information, wrap up the investigation and there is no cause of abuse, what happens from there?

Gladys- The information is kept for one year and then destroyed. If we find out that a service is required, the records remain for 10 years.

Senator Lyson- Is there a rule for the timeline that makes a determination there is no case?

Gladys- There was a change in policy, it used to be 3 years.

Senator Lyson- Why so long?

Gladys- When we do an assessment, and find out no services are required, sometimes the family gets reported again for suspected abuse. Sometimes we don't get enough information the first time it is reported.

Senator Dever- There are situations where the health care provider has not seen any signs of abuse, when that is the case, how can they share that information? Should there be a court involved in this?

Gladys- The issue for us is to do an assessment on whether or not services are needed. We understand the child has been seen by a physician in most cases, and the physician may have the information that we need. Our department works at putting all the pieces together to make sure that future mistreatment does not take place.

Senator Dever- Is the determination of what information is relevant to the assessment at the discretion of the medical provider?

Gladys- If the hospital refuses to give our department information that we feel is necessary for a case of child abuse or neglect, we would involve the state's attorney in the situation. It is my belief that the Human Services community and the health community work very well together to protect children.

Chairman Lee closed the hearing on SB 2360.

Chairman Lee opened discussion on the bill. Action taken:

Senator Brown moved for a Do Pass recommendation for the amendment. Seconded by Senator Warner. The amendment passed unanimously.

Senator Brown moved a Do Pass recommendation for the bill as amended. Seconded by Senator Dever. The bill as amended passed unanimously.

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Senate Human Services Committee

Bill/Resolution Number SB 2360

Hearing Date February 9, 2005

Senator Warner will be the carrier of the bill.

The meeting on SB 2360 was declared closed by Senator Lee.

Date: 2-9-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2360

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amendment

Motion Made By Sen Brown Seconded By Sen Warner

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

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

Date: 2-9-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2360

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Sen Brown Seconded By Sen Deane

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen Warner

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

REPORT OF STANDING COMMITTEE

SB 2360: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar.

Page 1, line 19, overstrike "preventing" and insert immediately thereafter:

1. Refusing access to any information or record requested for a child abuse or neglect assessment or any other investigation or proceeding under this chapter;
2. Preventing", after "made" insert an underscored semicolon, and overstrike "for excluding" and insert immediately thereafter:
- "3. Excluding"

Page 1, line 20, after "proceeding" insert "under this chapter"

Page 1, line 21, remove "Privilege of communication between any health care"

Page 1, remove lines 22 and 23

Renumber accordingly

2005 HOUSE HUMAN SERVICES

SB 2360


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2360

House Human Services Committee

☐ Conference Committee

Hearing Date 3/1/05

Tape Number	Side A	Side B	Meter #
1		x	170--570
Committee Clerk Signature 			

Minutes:

Chairman Price: Opens the hearing in SB 2360. Who is here to present for this one?

Susan Bozak, Public Affairs Officer at MeritCare Health System, Fargo, ND: (See Attached Testimony)

Representative Weisz: What is the policy now if asked for information?

Susan Bozak: In all honesty, with the number of providers we have in the state, I think that there are instances where information may be being released. It is because a physician wants to act in good faith and may not be aware of this. The complexity of the HIPPA laws, we have literally spent four years and hundreds maybe millions of dollars just in one organization, just operationalizing them. There are probably instances where it may be given back to the department without the physician knowingly doing that. What we are really trying to do is to bring that under the scope of the law. So right now, we do not as a practice, the health care

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House Human Services Committee
Bill/Resolution Number SB 2360
Hearing Date 3/1/05

organization, do not provide that information. It often times will elongate the process of investigation, and it is not in the best interest of the child.

Chairman Price: Anyone else in favor?

Krista Andrews, Attorney for Department of Human Services: (519) (See Attached Testimony)

Chairman Price: Any questions by the committee? No response. Anyone else testify in favor?

No response. Any opposition? Close the hearing on SB 2360.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2360**

House Human Services Committee

☐ Conference Committee

Hearing Date **16 March 2005**

Tape Number	Side A	Side B	Meter #
2	X		1600 - 1992
Committee Clerk Signature <i>Jan Prindle</i>			

Minutes:

Chairman Price opened discussion SB 2360. This is the bill Merit Care brought in.

According to them it's a clean up bill. (She read the added portions of the bill.)

Rep. Porter: I guess the thing that bothers me about is that this is information that's going to a social worker based on one of their founded or unfounded claims of neglect for the assessment process. If there is an actual case of abuse where there has been physical harm done to a child then law enforcement has immediate access to all those records and documents that they need that are necessary in a criminal case. This bill has nothing to do with a criminal case. It only has to do with the assessment process that's in place. In that process it's supposed to be an open sit down family gathering type of assessment and discussion. If they think there is something they need and they ask that family for a release of medical records and they don't give it to them and there is no other physical evidence that would suggest it needs to be a criminal case I can't

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House Human Services Committee

Bill/Resolution Number **SB 2360**

Hearing Date **16 Mar 05**

see why they should just have blanket authority to access someone's child's medical records and

I don't agree with this policy. **I move a Do Not Pass.**

Rep. Weisz: I second.

Rep. Weisz: You have to realize an assessment doesn't necessarily mean an assessment for child abuse. It can be for different reasons.

A roll call vote was taken.

Yes: 10 No: 2 Absent: 0

Rep. Damschen will carry the bill.

Date: 3/16/05

Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2360

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Rep Porter Seconded By Rep

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

Total () 10 No 2

Absent 0

Floor Assignment Rep Damschen

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

REPORT OF STANDING COMMITTEE (410)
March 16, 2005 8:48 p.m.

Module No: HR-48-5202
Carrier: Damschen
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2360, as engrossed: Human Services Committee (Rep. Price, Chairman)
recommends **DO NOT PASS** (10 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2360 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2360

North Dakota 2005 Legislative Session

Senate -- Human Services Committee

Senate Bill 2360

February 8, 2005

*Same
as given
to House*

Madam Chair and Members of the Committee:

My name is Susan Bosak. I am the Public Affairs Officer at MeritCare Health System in Fargo, North Dakota. I strongly urge the Senate Human Services Committee to bring Senate Bill 2360 to the Senate floor with a DO PASS recommendation.

This bill is a "clean up" effort following the passage of HIPAA. Medical facilities have given increased attention to patient privacy in light of the HIPAA Privacy Rule, which became fully effective in 2003. In general, confidential patient information cannot be disclosed to third parties without an authorization from the patient (or parent), unless the disclosure is permitted by law, for example, in reporting suspected child abuse. It has always been clear that we can disclose confidential information to the Department of Human Services in cases where our providers suspect child abuse or neglect, even without authorization of the parent or guardian. But the law is not so clear about whether the Department can ask us for confidential information in cases where we do not suspect abuse, but they are investigating for possible abuse or neglect based on other information they've received. We want to cooperate in these investigations in order to serve the

purpose of child protection laws, but we want to make sure the law permits us to disclose the information.

This bill would clarify that even if a provider has not reported suspected abuse, if the Department is investigating possible abuse or neglect of a child, it can request health information about that child from medical providers, and the providers are allowed to release it. The bill will give the Department needed access, and make it clearer to the providers what information may be disclosed.

Madam Chair and Members of the Committee, thank you for allowing me the opportunity to address you this morning. I would be willing to answer any questions you would have at this time.

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE
REGARDING SENATE BILL 2360
FEBRUARY 9, 2005**

Chairman Lee and members of the Committee, I am Krista Andrews. I am an attorney for the Department of Human Services. The Department supports Senate Bill 2360.

The Department would, however, like to offer a housekeeping amendment to SB 2360, which is attached to my testimony.

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

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**TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE
REGARDING SENATE BILL 2360
MARCH 1, 2005**

Chairman Price and members of the Committee, I am Krista Andrews. I am an attorney for the Department of Human Services. The Department supports Senate Bill 2360.

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