

2009 HOUSE HUMAN SERVICES

HB 1537

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1537

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8343

Committee Clerk Signature

*Vicky Crabtree*

Minutes:

**Chairman Weisz called to order the hearing on HB 1537.**

**Rep. Brandenburg, sponsor, introduced bill and testified in support:** spoke of constituent who needs a licensed caregiver before she can go to a funeral or family function.

**Rep. Conrad:** (Inaudible).

**Rep. Brandenburg:** If caregiver wants to go somewhere, maybe gone a couple of days. She needs mature people to come in and take care of her brother.

**Rep. Conrad:** Doesn't social service have a list of people that she can call.

**Rep. Brandenburg:** Neighbors are mature people and they have to go through a process to be on the list.

**Rep. Kretschmar Dist. 28, sponsor of bill testified in support:** I brought this bill forward for a woman in Ashley, ND. She lives with her downs syndrome brother and takes care of him.

She would like a break once in a while and neighbors would like to help her out, but they can't by law as they have to be licensed. Only family members can care for him and not be a licensed caregiver.

**Rep. Conrad:** Are these people paid?

**Rep. Kretschmar:** Don't believe so.

**Rep. Uglem:** It looks like this says she can give approval to anybody she wants to. Is that the intention?

**Rep. Kretschmar:** Yes.

**Nancy Nikolas, Program Administrator, Medical Services Division of Dept. of Human Services:** Testified to provide information. See attached Testimony.

**Chairman Weisz:** What are the standards of the qualified caregiver?

**Nancy Nikolas:** They need to demonstrate from a qualified health care professional like a nurse or doctor, that they have ability to take care of someone and help them with their activities of daily living.

**Chairman Weisz:** They would have to demonstrate that they meet those standards.

**Nancy Nikolas:** Correct.

**Rep. Conrad:** Is there a time limit?

**Nancy Nikolas:** No.

**Rep. Conrad:** Do you have respite providers all over the state?

**Nancy Nikolas:** Yes there are. Don't know how many there are. Can find out.

**Rep. Uglem:** With criminal background checks, does respite provider or dept. pay for that?

**Nancy Nikolas:** The Department pays for the background check.

**Rep. Uglem:** It would be relatively easy for friends to qualify if they wanted to?

**Nancy Nikolas:** Yes.

**Chairman Weisz:** Is there a difference if they are reimbursed or not? And I assume family members don't have to be considered a respite provider, correct?

**Nancy Nikolas:** The law reads that anybody who is living or working in the adult foster care home needs to submit to a background check.

**Chairman Weisz:** Those adult persons wouldn't have to meet the standards of the QFP then if they are family members to take care of that person?

**Nancy Nikolas:** They do have to meet the standards of a QFP.

**Rep. Kilichowski:** How many hours to meet these standards? Is it a long winded process?

**Nancy Nikolas:** If they can find a nurse or doctor to demonstrate this to, it can be relatively quickly. Otherwise, there is the opportunity to (inaudible).

**Rep. Conrad:** Do people go through the county social services to get the respite care worker?

**Nancy Nikolas:** There's a list of qualified persons in each county.

**Rep. Holman:** If someone is licensed and then have to leave and get a respite person in there, is there an interruption of payment to one?

**Nancy Nikolas:** If gone a couple of hours the care provider and respite worker would both get paid. If gone for 24 hours, the adult provider would not bill and the respite provider would bill for those services.

**Rep. Frantsvog:** You heard the story that was told and that must be happening all around the state. In every case (inaudible) by respite providers?

**Nancy Nikolas:** Yes.

**Rep. Frantsvog:** Can sister take friends to social service office and become qualified.

**Nancy Nikolas:** Yes. Takes two weeks to get a background check.

**Chairman Weisz:** Does it make a difference if they are not asking for reimbursement?

**Nancy Nikolas:** No. Still need to meet the qualifications.

**NO OPPOSITION.**

**Chairman Weisz closed hearing.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1537

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 9033

Committee Clerk Signature

*Tricky Crabtree*

Minutes:

**Chairman Weisz:** Let's look at 1537 about substitute caregivers.

**Rep. Potter:** MOTION FOR A DO NOT PASS.

**Rep. Uglem:** Second.

**Rep. Conrad:** I talked to Representatives Kretschmar and Brandenburg and writing something (inaudible).

**Rep. Potter:** I gave the motion because I think it is a bill to fix the problem for one family. They did have other options.

**Rep. Uglem:** I seconded because I really do believe they have other options and we shouldn't weaken the law.

**Roll Call for a DO NOT PASS:** 11 yes, 2 no, 0 absent.

**MOTION CARRIED FOR A DO NOT PASS.**

**BILL CARRIER:** Rep. Uglem.

Date: 2-9-09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1537

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

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

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Rep. Potter Seconded By Rep. Uglem

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI		✓
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 11 No 2

Absent 0

Bill Carrier Rep. Uglem

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

*Motion Carried  
on DNP*

**REPORT OF STANDING COMMITTEE**

**HB 1537: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1537 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1537



**Testimony**  
**House Bill 1537 – Department of Human Services**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
**February 2, 2009**

Chairman Weisz, members of the Human Services Committee, I am Nancy Nikolas, Program Administrator, Medical Services Division of the Department of Human Services. I am not here in support of this bill, I am here today to provide information regarding House Bill 1537.

The Department does not require a substitute caregiver to be a licensed adult foster care provider. Licensed adult foster care providers who need a break from providing care are required to use respite providers who meet the standards listed in N.D.A.C. §75-03-21-10. Respite providers must be 18 years of age or older, not be a resident of the adult foster care home, meet the standards of a qualified service provider, and successfully complete the criminal background check requirements as specified in N.D.C.C. § 50-11-02.4, §50-11-06.8, and §50-11-06.9.

The Department requires adult foster care providers to choose qualified respite providers to assure the health and safety of the residents. In addition, the Department has made assurances to the Centers for Medicare & Medicaid Services (CMS) in the home and community based services waivers for the elderly and disabled and developmentally disabled, that adult foster care respite providers will meet the standards previously stated.

If this change is made to chapter 50-11 of the North Dakota Century Code, the Department would need to modify the provider qualifications currently approved by CMS in the home and community based waivers. We are uncertain of how CMS would view this change in qualifications.

I would be happy to address any questions that you may have.