

Health and Human Services Committee

**Testimony of Sally Holewa
State Court Administrator
October 7, 2010**

Good Afternoon, Chairman Weisz and members of the Health and Human Services Committee. For the record, my name is Sally Holewa. I am the State Court Administrator, appearing on behalf of the North Dakota Court System. I am here at your request to present information about judicial bypass abortions. I will be happy to answer any questions throughout or after my presentation.

North Dakota Century Code authorizes an unmarried minor to obtain an abortion without parental consent if a judge finds either that the minor is sufficiently mature and well informed about the nature, effects and consequences of an abortion or if the minor is not sufficiently mature and well informed, but the judge has determined that it would **not** be in the best interests of the child to notify the child's parent or guardian to advise and counsel the minor. This is commonly referred to as a judicial bypass abortion.

The committee has requested the following information from the courts:

- Judicial bypass abortions by county
- County of Residence of child in those cases where the bypass was granted
- The number of requests for judicial bypass abortions that have not been granted
- Guidelines used by the court to determine whether or not to grant the judicial bypass

I would like to first address the request for guidelines before going into the statistics.

Guidelines used by the Court – When determining whether to grant or deny a judicial bypass abortion, judges apply the statutory criteria to the situation before them. The court has not developed any additional guidelines, policies, rules, or procedures in regard to this area of the law.

Statistics on Judicial Bypass Abortions – Statistics on the number of judicial bypass abortion cases filed and the final disposition of these cases are difficult to obtain for two reasons:

- (1) By statute, cases are sealed 48 hours after the final order is issued and, by court rule the files can be destroyed one year from the date of the final order. While we are able to identify a number of cases by case number recorded in our case management system, the names of the parties have been eradicated and the documents that comprise the case have already been destroyed. Without the documents to refer to, there are a number of cases where the child's county of residence and the outcome of the case is unknown; and
- (2) A portion of the cases filed end up as a transfer of venue to Cass County. Counting strictly the number of cases identified on the case management system, we know that a certain portion of them are actually the same case, only with two different county numbers. Since the case management system does not have a way to distinguish these transfer cases from cases that originated in the county, we do not know how many of these cases we may be double counting.

With these two caveats in mind, let me turn to the attached data. We reviewed cases from 2007 through 2009 and found a total of 140 judicial bypass cases statewide. The breakdown of that number is:

Year	Number of Cases Filed
2007	51
2008	37
2009	52

Of those 140 cases where the disposition is known, 84 were granted, 1 was denied and 27 were withdrawn. We were unable to determine the final disposition of 28 cases.

Keeping in mind that we were not able to determine the county of residence of the child if the file had already been destroyed, we found that 63 cases were filed by North Dakota residents, 38 were Minnesota residents and 5 were South Dakota residents. We were unable to determine county of residence in 34 cases.

During that same time period, 6 counties reported transferring a total of 14 cases to Cass County. This does not match the data provided by Cass County on cases belonging to non-Cass County residents. Of those cases where Cass County was able to determine county of residence of the child, 15 cases were identified with residents from 9 different counties.

The inconsistency in numbers is likely the result of four different factors:

- (1) the petitioner withdrawing the petition after the transfer of venue order was issued;
- (2) some of those cases that were destroyed and reported as "unknown" were actually transfers of venue to Cass County;
- (3) the cases were incorrectly entered in the originating county and were not picked up on the computer report for that county, but once transferred, were entered correctly in Cass County and picked up there;
- (4) the petitioner was a resident of another county but filed the original petition in Cass County.

Again, without access to actual case records, it is impossible to know which of these four factors may have been at work in any individual case, or if there is another unknown factor leading to the difference in the reports we received from each county. This concludes my testimony. I will be happy to answer any questions you may have.

Number of Cases by Child's County of Residence 2007-2009

Barnes	1
Burleigh	5
Cass	33
Grand Forks	5
McHenry	1
McIntosh	1
Morton	3
Towner	1
Ramsey	4
Ransom	1
Rolette	3
Stark	2
Stutsman	1
Ward	1
Williams	1
Total - North Dakota Residents	63
Minnesota	38
South Dakota	5
Total - Non-North Dakota Residents	43
Total - Cases where residence is unknown	34

Disposition by County by Year - 2007	Granted	Denied	Withdrawn	Unknown	Venue Transferred
Cass	44	0	2	1	0
Grand Forks	0	0	0	2	0
Morton	0	0	0	0	2
Stark	0	0	0	0	1
Total	44	0	2	3	3

Disposition by County by Year - 2008	Granted	Denied	Withdrawn	Unknown	Venue Transferred
Burleigh	0	0	0	0	1
Cass	16	1	5	7	0
Grand Forks	0	0	0	2	0
Morton	0	0	0	0	1
Ramsey	0	0	0	1	0
Stark	0	0	0	0	1
Ward	1	0	0	0	0
Williams	0	0	0	0	1
Total	17	1	5	10	4

Disposition by County by Year - 2009	Granted	Denied	Withdrawn	Unknown	Venue Transferred
Burleigh	0	0	0	0	3
Cass	17	0	5	14	0
Grand Forks	2	0	0	1	0
McHenry	0	0	0	1	0
Ramsey	2	0	0	1	0
Rolette	0	0	0	3	0
Stutsman	0	0	0	1	0
Ward	1	0	0	0	0
Total	22	0	5	21	3

2007 JUDICIAL BYPASS CASE FILINGS BY COUNTY

<u>COUNTY</u>	<u>No. of Cases</u>	<u>Childs County of Residence</u>	<u>Final Result of Case</u>
Cass	47	Barnes (1), Burleigh (1), Cass (11), McIntosh transferred from Morton (1), Morton (3), Stark (1), Minnesota (23), South Dakota (3), withdrawn (2), unknown (1)	Granted (44), withdrawn (2), unknown (1)
Grand Forks	2	Unknown (2)	Unknown (2)
Morton	2	Morton (2)	Change of venue (2)
Stark	1	Stark	Change of venue
Total	52		

2008 JUDICIAL BYPASS CASE FILINGS BY COUNTY

<u>COUNTY</u>	<u>No. of Cases</u>	<u>Childs County of Residence</u>	<u>Final Result of Case</u>
Burleigh	1	Burleigh	Change of venue
Cass	29	Cass (5), Morton (1), Williams (1), Minnesota (8), South Dakota (1), withdrawn (5), denied (1), unknown (7)	Granted (16), denied (1), withdrawn (5), unknown (7)
Grand Forks	2	Unknown (2)	Unknown (2)
Morton	1	Morton	Change of venue
Ramsey	1	Unknown	Unknown
Stark	1	Stark	Change of venue
Ward	1	Ward	Granted
Williams	1	Williams	Change of venue
Total	37		

2009 JUDICIAL BYPASS CASE FILINGS BY COUNTY

<u>COUNTY</u>	<u>No. of Cases</u>	<u>Childs County of Residence</u>	<u>Final Result of Case</u>
Burleigh	3	Burleigh (3)	Change of Venue (3)
Cass	36	Burleigh (1), Towner (1), Cass (3), Morton (1), Ransom (1), Steele (1), Traill (1), Minnesota (7), South Dakota (1), withdrawn (5), unknown (14)	Granted (17), withdrawn (5), unknown (14)
Grand Forks	3	Grand Forks (2), unknown (1)	Granted (2), unknown (1)
McHenry	1	Unknown	Unknown
Ramsey	3	Ramsey (2), unknown (1)	Granted (2), unknown (1)
Rolette	3	Unknown (3)	Unknown (3)
Stutsman	1	Unknown	Unknown
Ward	1	Ward	Granted
Total	51		