Testimony Prepared for the
House Human Services Committee
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RE: HB 1268: Mandatory drug testing

Chairman Ruby and member of the House Human Service Committee. I would like to thank you for the opportunity to give testimony today, in support of House Bill 1268.

My name is Tabitha Deraas, I am a foster parent, registered nurse and a co-author of this bill. I became a foster parent six years ago as a direct result of my experiences as a pediatric and neonatal ICU nurse. Over the course of one summer, we sent four children home from the NICU into environments that we as nurses did not feel were safe. We had documented and reported these concerns repeatedly, yet the babies were cleared to go home by CPS. Three of those babies are dead and one will be a vegetable for the rest of their life. As a NICU staff we were appalled and heartbroken. We didn't understand how this could happen so we asked Burleigh County to come educate our nurses about what we could do to prevent this from happening again. We were told we needed to keep doing what we were doing, reporting and documenting. But we were also told the county needed homes, homes willing to take on medically fragile children. Homes willing to take on babies withdrawing from drugs. Homes willing to take on NICU babies. So I became one of those homes.

Over the last six years, my husband and I have provided respite foster care, long term foster care, kindship or family member foster care and in home foster care prevention services. Through these foster care avenues we have welcomed eight children into our home. The illegal use of controlled substances or illicit drug use was a contributing factor to all of those removals. Of those children, one was adopted and the remaining seven were reunified with at least one of their biological parents. Drug use contributed to their removal however drug testing was not completed

prior to reunification. All of these children have reentered the foster care system two or more times since the original reunification. In the majority of these reentries into care, illegal use of controlled substances or illicit drug use was a contributing factor to the subsequent removals. Mandatory drug testing early on in the visitation process could have prevented these reentries and the subsequent retraumatization of these children.

I would like to be very clear. Our goal is always that the children in our care would be reunited with their biological parents when it is SAFE and HEALTHY to do so. Mandatory drug testing prior to unsupervised visitations, when the use of illegal substances were a contributing factor in the child's removal, is a step toward ensuring this safety.

When I first presented the idea of this bill to a social worker at the county, she was very clear about two things:

1.) Her and her peers support of mandatory drug testing
2.) The hurdles we would encounter when trying to pass a bill of this nature.

She presented me with this example:

She had recently returned a child to their biological parent, who had a known substance use disorder (SUD) and who was still actively using. The safety plan put in place for this child was as follows. When the mother identified that she was being triggered and needed to use methamphetamine. She was to first take her child to the grandparents' house, go and use methamphetamine and then pick up the child when she was sober. The social worker then posed this question to me, how is this child unsafe, if they are not physically present at the time of the drug use? It is important to note, as a foster parent I have been told more times than I can count, "risk of danger is not the same of imminent danger." And "we don't care what the parents do, so long as the child is not present." This viewpoint is very narrow and frankly destructive. It focuses solely on the moment of drug use and fails to take into account the overall impact of parental

substance abuse on children. Studies have shown the following for children raised in homes with active drug use:

- "We know that individuals who grow up in a family where there is an SUD are at significantly higher risk to develop SUDs due to genetic and environmental factors (Hawkins, Catalano, & Miller, 1992)."

- "Studies indicate that between one third and two thirds of child maltreatment cases involve some degree of substance use (U.S. Department of Health and Human Services [USDHHS], 1996) and (Child Welfare Information Gateway, 2021)."

- Children raised in homes with active drug use are at an increased risk for internalizing problems such as depression, anxiety, substance abuse... or externalizing problems such as opposition, conduct problems (stealing, lying, and truancy), anger outbursts, aggressivity, impulsivity, and again substance abuse (Lander L, Howsare J, Byrne M., 2013).

- A parent with a SUD is 3 times more likely to physically or sexually abuse their child. The effect of this is that these children are more than 50% more likely to be arrested as juveniles, and 40% more likely to commit a violent crime (USDHHS, 1996).

- Maltreated children of parents with a SUD are more likely to have poorer physical, intellectual, social, and emotional outcomes and are at greater risk of developing substance abuse problems themselves (USDHHS, 2003).

- Ghertner et al., (2018) found that substance use was associated with more complex and severe cases of child maltreatment.

- Children in these families also often witness the convergence of poor communication and affect dysregulation with their caregivers that frequently results in domestic violence (Lander L, Howsare J, Byrne M., 2013).

- Common emotions these children experience are anxiety, fear, depression guilt, shame, loneliness, confusion, and anger (Lander L, Howsare J, Byrne M., 2013).

- Approximately 39% of children removed from their homes due to parental substance abuse reenter foster care within a year, often due to unresolved substance use disorders (NCSACW, 2020).

- In one study, 54% of adolescent runaways and homeless youth reported drug use in the home

- In terms of diagnosable mental and emotional disorders, children affected by parental substance abuse are virtually at higher risk for nearly every childhood disorder in the

Diagnostic Statistical Manual of Mental Disorders (DSM-V-TR; American Psychiatric Association, 2000). Of most significant correlation are the following: eating disorders, behavior disorders, anxiety disorders, depression, post-traumatic stress disorder, and SUDs.

- A variety of educational problems are also characteristic of children affected by parental substance use. Many of these culminating in increased truancy and dropout rates (Lander L, Howsare J, Byrne M., 2013).

The body of research available on the impacts of parental substance use on children is vast. This is simply a small snippet of what researchers have found over the last several decades. When we take this information into account, it is negligent to subject children to these well documented and known risks. I would like to point out that several of the statistics cited above were published by the US Department of Health and Human Services, of which the ND Department of Health and Human Services is a subsidiary. Those speaking in opposition of this bill are the also the ones publishing the research that supports this bill. Research that has been used by other states to enact laws similar to the one proposed today.

So, in answer to the social worker's original question, how is the child unsafe when they are not physically present when drug use is occurring? I would postulate that a child placed in an environment with known substance use is a child placed in danger, where the short term and long term emotional, physical, psychosocial and mental effects are well documented by a vast body of research. A vast body of research that points to the great disadvantages these children find themselves in.

Mandatory drug testing prior to unsupervised visitations, when use of an illegal substance was a contributing factor in the child's removal, is a step toward ensuring these children's futures and hindering the impact of their parents SUD on their growth, development, education, physical, emotional and mental health.

Let's take this from a national stage, back to North Dakota. To the kids right here at home. The first two children I cared for came into foster care as a direct result of parental substance use and the abuse and neglect that resulted from this substance use. These children were in care for over a year and half. We were told their mother had to pass a hair follicle drug test in order for reunification to take place. The test was never completed, six months later, the children were returned to their mother. About one year later those children reentered the foster care system. They went back to mom again, no drug test was done. They had reentered the foster care system again, a third time in six years. Mandatory drug testing early on in the visitation process could have prevented this volleying back and forth. Not only preventing the retraumatization of the children, but also allowing the mother time to get the needed services to truly step into recovery and thus be set up for success as a parent.

Another child we cared for was with our family for three years. During this time his mother continued to struggle with the SUD that contributed to his removal. Through a series of events we ended up with medical documentation of a drug screen positive for amphetamines. When this information was presented to our case worker, we asked when they would repeat the drug test. We were told the state does not mandate drug testing and therefore they would not requiring another test. We offered to pay for the testing if the county would enforce it and were told that was not an option. Instead, the mother was strongly encouraged (not required) to complete a "Drug and Alcohol Evaluation." One week after testing positive for amphetamines, she passed the "Drug and Alcohol Evaluation" with flying colors and no recommendations. When our case worker questioned this, the evaluator informed her that the evaluation is 100% dependent on the truthful testimony of the person being interviewed. So despite a positive drug test, she passed the eval and therefore visitations increased to unsupervised. We continued to see signs of drug use and were told by the case worker, "we don't care what she does when the child is not present." The child was returned to

their mother despite ongoing drug use. One month later, that three-year-old was forgotten at the school bus stop because mom was too high to come pick him up. Mandatory drug testing prior to beginning unsupervised visitations would have identified a risk that could have been mitigated with more time and more services to help identify and treat mom's SUD. During this time the child would have still had supervised visits with mom, while remaining in a safe environment as she began the process or refused the process of recovery.

The mandatory testing presented in this bill, is not designed to be the primary tool to determine reunification. It is designed to be one additional tool in the case workers tool kit to help guide the reunification process. While a one-time drug test provides only a snapshot of sobriety, a positive drug test can indicate a need for further intervention and treatment for the parent with the potential of improving their ability to provide a safe environment for their child. While a positive test identifies a potential risk, a negative test points to improvement and advances visitation. Drug testing results can be used as part of a larger picture to make informed decisions about child safety and family reunification. Additionally, repeated testing can track a parent's progress and their adherence to treatment plans.

The heart of HB 1268 is child safety and parent success! We want to set families up to succeed. This cannot happen when children are subjected to environments that include ongoing, untreated substance use and abuse. And when parents are not given the time needed to complete the recovery process. Mandatory drug testing prior to unsupervised visits in cases where the illegal use of controlled substances, chemical substances or the presence of drug paraphernalia were a contributing factor to the removal of a child from their home can help ensure this safety and success. I respectfully request a "Pass" on House Bill 1268.

Thank you for your consideration of my testimony. Attached to my testimony are references for all the statistics and facts I cited today. As a co-writer of this bill, I welcome any questions or clarifications you may have.

Reference List:

1.) American Psychiatric Association . Diagnostic and statistical manual of mental disorders. 4th ed. Author; Washington, DC: 2000. text rev. [Google Scholar]

2.) Child Welfare Information Gateway. (2021). Parental substance use and the child welfare system. U.S. Department of Health and Human Services. Retrieved from https://www.childwelfare.gov

3.) Garay M. The Effects of Parental Substance Use Disorders on Children and Families.

4.) Ghertener, R., Baldwin, M., Crouse, G., Radel, L., & Waters, A. (2018). The relationship between substance use indicators and child welfare caseloads. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. https://aspe.hhs.gov/pdf□report/relationship-between-substance□use-indicators-and-child-welfare□caseload

5.) Hawkins D, Catalano R, Miller J. Risk and protective factors for alcohol and other drug problems in adolescence and early childhood: Implications for substance abuse prevention. Psychological Bulletin. 1992;112(1):64–105. doi: 10.1037/0033-2909.112.1.64. [DOI] [PubMed] [Google Scholar]

6.) National Center on Substance Abuse and Child Welfare (NCSACW). (2020). Parental substance use and the child welfare system. U.S. Department of Health and Human Services. Retrieved from https://ncsacw.acf.hhs.gov/files/statistics-2020.pdf

7.) Lander L, Howsare J, Byrne M. The impact of substance use disorders on families and children: from theory to practice. Soc Work Public Health. 2013;28(3-4):194-205. doi: 10.1080/19371918.2013.759005. PMID: 23731414; PMCID: PMC3725219.

8.) U.S. Department of Health and Human Services. Administration on Children, Youth, and Families . Child maltreatment 2005. U.S. Government Printing Office; Washington, DC: 2007. [Google Scholar]

9.) U.S. Department of Health and Human Services. Children's Bureau . Child welfare information gateway: A bulletin for professionals. U.S. Government Printing Office; Washington, DC: 2003. [Google Scholar]

10.) U.S. Department of Health and Human Services. National Center on Child Abuse and Neglect. Third national incidence study of child abuse and neglect (NIS-3) U.S. Government Printing Office; Washington, DC: 1996. [Google Scholar]