



Protection & Advocacy Project

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Human Services Committee

Senate Bill 2164 - March 5, 2025

Testimony of Brad Peterson, Legal Director

Greetings Chairman Ruby and members of the Human Services Committee. My name is Brad Peterson, and I am the Legal Director at the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency established in 1977 to assert and advance the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

P&A requests a do pass on SB 2164 as it protects individuals with disabilities who may be subject to financial exploitation by a caretaker, relative, or a person with a fiduciary relationship who may take or misuse the property of the person with developmental disabilities or mental illness by means of undue influence, deception, or theft. This is often seen when a trusted individual has access to the individual's disability benefits check and financial accounts. When such an exploitation occurs the consequence for a person with a disability is serious and devastating. Through its investigative work, P&A understands the lasting impacts of financial exploitation on individuals with disabilities, which may include the loss of housing due to unpaid rent, loss of services, loss of employment, even evictions and collection cases.

When P&A receives a report of suspected exploitation, we immediately do an assessment to determine the validity of the report. If investigation is warranted, there is a need to access bank records to determine the level of the exploitation. Unfortunately, we have recently seen a reluctance on the part of some financial institutions to assist us with accessing records rendering our investigation impossible, which further perpetuates the exploitation to vulnerable individuals and amplifies harm. The financial institutions have told us their reluctance is based on NDCC§ 06-08.1-03 which limits record access.

P&A is statutorily authorized under state and federal law to pursue legal, administrative, and other appropriate remedies to ensure the protection of and the rights of persons with developmental disabilities or mental illness (NDCC §25-01.3-06; 42 USC §10805, 42 USC §15043). This authority allows P&A the ability to investigate reports of abuse, neglect, exploitation (NDCC §25-01.3-08; 45 CFR §1326.27(b)). A key component for P&A to carry out its investigative authority is the ability to access records of a client (NDCC §25-01.3-07; 42 CFR §51.41; 45 CFR §1326.25).

P&A supports the passage of Senate Bill 2164 in its current amended form, it will serve the best interests of those it is intended to protect by ensuring P&A's ability to carry out its statutory mandate to investigate suspected abuse, neglect, or financial exploitation of an individual with a disability or mental illness under Chapter 25-01.3 without imposing a duty on a financial institution to investigate suspected abuse, neglect, or exploitation of an individual with a disability or to make a report directly to the Protection and Advocacy Project.

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