



Testimony prepared for the Senate Human Services Committee
HB 1095 – Related to School CPS Liaisons
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Chair Lee, and members of the Senate Human Services Committee, my name is Kim Jacobson. I serve as the Director of Agassiz Valley Human Service Zone, which includes the counties of Traill and Steele, and as President of the North Dakota Human Service Zone Director Association. I am here today to provide testimony in strong opposition to HB 1095.

The federal Child Abuse and Prevention Treatment Act (CAPTA) of 1974 requires states to establish procedures for receiving and responding to allegations of abuse or neglect and ensuring child safety. North Dakota's response to CAPTA was the enactment of NDCC Chapter 50-25.1. This chapter mandates that human service zones provide child protective services (CPS). North Dakota Century Code, state Administrative Rule, and North Dakota Health and Human Services (NDHHS) policy all guide North Dakota's application of CAPTA and the provision of CPS services.

North Dakota's state-supervised, locally administered child welfare system is delivered by a team of dedicated professionals at the human service zone and NDHHS levels. A high-level overview of these duties and responsibilities can be found in the attached handout, "*Who does What in Child Welfare?*" Starred items reflect the CPS team.

The North Dakota child welfare system values our partners, including schools. Schools and human service zones have much in common. We both work closely with state agencies — the North Dakota Departments of Public Instruction and Health and Human Services, respectively. We both have local boards that advise and guide decision-making. We both serve local communities by providing critical services to children — and we both depend on state and federal funding to administer these critical services. In addition, we often collaborate with community partners to provide optimal, efficient service delivery to our constituents.

However, schools and human service zones hold distinctly roles. Schools are education experts. Human services zones do not expect to enter schools and direct their educational practice, decisions, or curriculum. Likewise, human service zones are child safety experts. We ask for the same acknowledgement of our expertise and legal responsibilities.

House Bill 1095 may be intended to strengthen relationships and communications between schools and the child protection teams within human services. However, relationships cannot be legislated. The role of legislation is to define roles, responsibilities, and authority. Relationships are developed in different ways and built on mutual respect. Legislation *can* help fund and create structure for healthy relationships between political subdivisions. One such example of this is SB 2176, related to the North Dakota Children's Cabinet. To reiterate previous testimony, the multidisciplinary workgroups that SB 2176 provides would allow service providers, law enforcement, the legal community, schools, and the CPS system to optimally support children and their families while reducing systems conflict.

As child safety experts, the North Dakota Human Service Zone Director Association has significant concerns about HB 1095, which allows a school to hire one or more individuals to serve as a "child protective services liaison."

- **Concern #1: Funding.** This bill does not have a fiscal note or appropriation, so it is not clear how schools will be funded to fill the liaison roles proposed by this law. It is also unclear whether schools are limited in the number of liaisons they may hire.
- **Concern #2: Qualifications.** This bill establishes no qualifications for a CPS liaison. What would those qualifications be?
- **Concern #3: Authority.** The role and purpose of a CPS liaison is outlined from Line 12 on Page 1 through Line 4 on Page 2. Notably, this bill calls for the school CPS liaison to be the "primary point of contact" for CPS (Page 1, Line 13), and it requires the liaison to "inform school personnel of a student's needs resulting from the student's involvement with child protective services as necessary" (Page 1, Lines 20-21). This appears to transfer CPS authority from the statutorily authorized CPS system to the school.
- **Concern #4: Systems Conflict.** Functionally, HB 1095 is also likely to cause conflict and confusion for both professionals and families. Where does the school's jurisdiction end, and CPS jurisdiction begin? Who does a family involved with CPS communicate with — the school, or the zone?
- **Concern #6: Service Delivery and Scope.** CPS serves a much broader demographic than public school attendees. We serve pregnant mothers, infants, toddlers, preschoolers, and even 16- and 17-year-olds who do not attend school. We also serve home-schooled children, and children in facilities and institutions. Does HB 1095 intend to carve out a different CPS process for children who aren't in a public school system? Or does it intend to expand the role of schools in working with children in which they do not have routine contact? What is the proposed process for families who

may have one child in a public school district, and another child who is home-schooled or not old enough to attend school?

- **Concern #7: Compromised investigations.** This bill directs the school liaison to be the school spokesperson for CPS (Page 1, Lines 14-15). This is concerning for multiple reasons. First, CPS workers must interview relevant parties or collateral contacts to complete the CPS assessment process. This is a fact-finding process. Unless they themselves have witnessed signs of abuse or neglect, a spokesperson does not have a firsthand account. This could lead to inaccurate or compromised interviews and fact gathering, resulting in inaccurate findings of suspected child abuse/neglect. Second, educators and other school professionals are mandated reporters. If they witness circumstances that cause them to suspect child abuse or neglect, it is their legal duty to report this to the proper authorities. Because this bill establishes a CPS liaison at the school district level, who is to “act as a point of contact for child protective services” (Page 1, Line 13), and who is to communicate with CPS “on behalf of the school district as allowed by law,” HB 1095 creates confusion *within the law* about who the proper authority is for a district-employed mandated reporter. Third, with regard to fact-finding and interviews, if the CPS liaison asks the wrong questions of the wrong person at inappropriate times, the information is contaminated. This can ultimately lead to procedural issues for the child’s safety, parental due process, the state’s attorney, law enforcement, and the court itself. Are schools prepared to provide the CPS liaison with legal representation for every CPS case they touch that ends up in court? Are the CPS liaisons prepared to testify? Will the state provide schools with professional liability insurance for legal challenges?
- **Concern #8: Federal and state compliance.** House Bill 1095 calls for the school liaison to “assist” with CPS investigation (Page 1, Lines 16-17). This is extremely concerning on multiple levels. CPS assessments are conducted by a team of trained and dedicated professionals. “Assisting” with the investigation (known as assessment) may cause serious conflict of interest and confidentiality concerns. It also presents potential jurisdictional conflicts with the ICWA, as there are Native American children present in nearly every school district in our state. Child protection — including assessment, findings, safety plan development, and the release of information — is highly regulated at federal and state levels. House Bill 1095 will inevitably lead to compliance violations and legal challenges for the state and its political subdivisions.

Concern #9: Individual Confidentiality. Our Association is deeply concerned about how HB 1095 could create privacy and confidentiality concerns for children and families around CPS activities. This concern arises from multiple aspects of the bill. In particular, the requirements for a school district employee to “assist” CPS with child safety assessments (Page 1, Lines 16-17), to coordinate services “for a student in the care of child protective services” (Page 1, Lines 18-19), and

communicate details related to “the student's involvement with child protective services” (Page 1, Lines 20-21), are problematic. Sharing CPS-related details **prior to assessment determination, and without release of information from the parents**, may cause families and children undue harm. Parental and child rights, specifically privacy rights, may be infringed upon by implementing this bill.

- **Concern #10: Data Privacy.** Likewise, the data reporting process outlined from Line 22 of Page 1 through Line 4 of Page 2, may pose threats to student and family confidentiality. There are no regulations for the secure storage of this data by a school district, and this bill does not limit who may access this data. Because community members serve on school boards, confidential information could easily be shared with the community through this report. Furthermore, the purpose of such a report is unclear. This process does not require CPS/NDHHS review, input, or oversight. It may, however, serve as a vehicle for a district to draw incorrect conclusions about assessment findings, and incentivize complaints to school boards, which do not have authority over CPS — especially if the school disagrees with the findings. This is likely to be counterproductive to child safety *and* strengthening the relationship between human services and schools.
- **Concern #11: Resource Allocation and Role Confusion.** House Bill 1095 would require CPS to provide training to school CPS liaisons within six months of the liaison's designation (Page 2, Lines 5-13). This creates further role confusion between schools and the CPS system. Additionally, North Dakota has 180 school districts. Between initial training, ongoing training, and turnover, it would be extremely costly for zones or HHS to train one or more liaison at every school district in North Dakota. Yet there is no fiscal note or appropriation to cover these costs, nor has the necessary work been performed to reasonably estimate these costs. Candidly, this training requirement would divert already-limited resources from human service zones or the Department of Health and Human Services to perform ad hoc, ongoing training. The Association is concerned with the impacts to child safety and timeliness of initial contact if-already limited workers are now tasked with the burden of initially, and repeatedly, training every educator in every school district.
- **Concern #12: Local Representation and Parental Rights.** Last week, the committee heard HB 1562, which reduces mandated reporter training requirements, provides schools with *more* flexibility regarding training focus, and strengthens local decision-making to support tailored approaches to unique community needs. House Bill 1095 is directly opposed to that bill in nature and in application. It significantly increases training for certain school staff, complicates mandated reporting, and increases the role of government in North Dakota schools. This raises concerns about parental rights in their child's education and local input on the authority of a public school district to make this decision.

Educating K-12 students calls for highly skilled education professionals. This work is, in fact, so complex that educators specialize in different subjects, different grade levels (which correlates to different levels of childhood development), and different levels of cognitive ability — including students who are highly advanced, and students who are delayed. Likewise, child protection work calls for highly skilled and specially trained child welfare experts. We have dedicated investigators, dedicated case managers, and a team that integrates zone and HHS employees.

House Bill 1095 only complicates these two systems — and this will not benefit children and families. Child welfare transcends any single entity and relies upon a community response in which schools play a significant role. However, the original intent of this bill can be more comprehensively addressed and effectively accomplished through more appropriate and more legally compliant avenues. Again, I remind the committee of SB 2176. Not only would this bill establish functional workgroups to make holistic, interdisciplinary recommendations to the collaborative systems within our state; it would also relocate the Children’s Cabinet to the Office of the Governor, which maximizes the Cabinet’s ability to affect statewide change.

Thank you for consideration of my testimony regarding House Bill 1095. I respectfully request a “do not pass” on HB 1095. I stand for questions from the committee.