

**2025 SENATE HUMAN SERVICES**

**SB 2164**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Fort Lincoln Room, State Capitol

SB 2164  
1/15/2025

Relating to the duty of confidentiality and disclosure to the North Dakota protection and advocacy project.

9:01 a.m. Chairman Lee called the meeting to order.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan. Senator Roers absent.

### **Discussion Topics:**

- Client acquisition
- Obtaining medical records
- Guidelines on reporting
- Financial exploitation investigations

9:02 a.m. Veronica Zietz, Executive Director of ND Protection and Advocacy, testified in favor.

9:03 a.m. Brad Peterson, Legal Director of Protection and Advocacy, testified in favor and submitted testimony #29179.

9:12 a.m. Grace Larsen, Disabilities Advocate at the North Dakota Protection and Advocacy Project, testified in favor and submitted testimony #29066.

9:17 a.m. Rick Clayburgh, CEO of North Dakota Bankers Association, testified in opposition.

9:33 a.m. Chairman Lee closed the hearing.

*Andrew Ficek, Committee Clerk*



# Protection & Advocacy Project

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Human Services Committee

Senate Bill 2164 - January 15, 2025

Testimony of Grace Larsen, P&A Disabilities Advocate

Greetings Madam Chair Lee and members of the Human Services Committee. My name is Grace Larsen and I am a Disabilities Advocate at the North Dakota Protection and Advocacy Project (P&A). P&A provides protective services and advocacy at no cost to eligible individuals with disabilities. These services include information and referral, self-advocacy assistance, advocacy representation, legal representation, and investigations of abuse, neglect, and exploitation. As a Disabilities Advocate, I work with clients every day to help them resolve disability-related issues and to ensure that they are being treated humanely.

P&A supports Senate Bill 2164 as it protects individuals with disabilities who are alleged to have been financially exploited by a caretaker, relative, or any person having a fiduciary relationship with them. Financial exploitation occurs when a person with a fiduciary responsibility takes or misuses the property or financial resources of a person with developmental disabilities or mental illness by means of undue influence, breach of fiduciary relationship, deception, theft, or other unlawful or improper means.

Many individuals with disabilities rely on others to aide them in managing their finances; these fiduciary roles can include a representative payee, guardian, custodian, or other trusted person who meets the definition of a caretaker. Such individuals may have access to the person with a disability's checking, savings, and other financial accounts, often as joint accounts. These trusted individuals are also responsible for paying rent, utilities, food, clothing, medication, and all other necessities to meet basic living needs.

When a person with a disability is financially exploited by a trusted person in a fiduciary role, the consequences for the person with the disability are serious and can be devastating. P&A has investigated exploitation cases with grave consequences to individuals with disabilities. For instance loss of housing due to rent and utilities not being paid; loss of services such as food stamps, housing and utility assistance, Medicaid, and Medicare; and loss of employment due to not having money for public transportation to get to work, which can lead to eviction and cause homelessness. Unpaid debts and evictions affect credit scores and future ability to rent a place to live.

Upon receipt of any report of suspected abuse, neglect, exploitation P&A assess the need for an investigation of the report. If P&A determines the report is warranted, P&A investigates or can work with other appropriate entities to ensure an investigation is completed. In financial exploitation reports, P&A must have access to bank records to determine if financial exploitation has occurred.

Recently I have worked investigations of exploitation where banks were not willing to comply with existing state and federal law regarding P&A's access to records. This has made it impossible to complete investigation into the alleged exploitation of individuals with disabilities. Not being able to access records impacts P&A's ability to complete its statutorily required work. Beyond that it puts people with disabilities in a position to be continually exploited. When P&A can appropriately access records, we can establish findings, conduct risk management, and safeguard that person from further harm.

I ask that you please support SB 2164. Thank you for your time and consideration.

Grace Larsen  
Disabilities Advocate  
glarsen@nd.gov



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Human Services Committee

Senate Bill 2164 - January 15, 2025

Testimony of Brad Peterson, Legal Director

Greetings Madam Chair Lee and members of the Human Services. 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 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 carrying 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).

While carrying out its mandated duties, P&A may at times need access to records from a financial institution. Recently, P&A has received resistance from financial institutions in providing access to records, even though P&A showed a need for the records, assured the financial institution of compliance with statutory confidentiality requirements, and cited existing law. It has been suggested by financial institutions that this resistance is based on NDCC 06-08.1-03 which limits the release of certain financial records to governmental agencies and law enforcement in financial exploitation matters.

P&A supports the passage of Senate Bill 2164 in its current form, as it will serve the best interests of those it is intended to protect by ensuring P&A the ability to carry out its statutory mandate to investigate suspected abuse, neglect, or financial exploitation of an individual with a disability 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.

Brad Peterson

P&A Legal Director

[brapeterson@nd.gov](mailto:brapeterson@nd.gov)

# 2025 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Fort Lincoln Room, State Capitol

SB 2164  
1/15/2025  
10:16 a.m.

Relating to the duty of confidentiality and disclosure to the North Dakota protection and advocacy project.

10:16 a.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

### **Discussion Topics:**

- Common practices in other states
- Granting P&A greater authority than law enforcement
- Access on a need-to-know basis

10:16 a.m. Chairman Lee opened discussion.

10:35 a.m. Chairman Lee closed the hearing.

*Andrew Ficek, Committee Clerk*

# 2025 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Fort Lincoln Room, State Capitol

SB 2164  
1/27/2025

Relating to the duty of confidentiality and disclosure to the North Dakota protection advocacy project.
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3:32 p.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

### **Discussion Topics:**

- Emancipated minors

3:32 p.m. Victoria Christian from Legislative Council answered committee questions and submitted testimony #32304.

3:35 p.m. Chairman Lee closed the hearing.

*Andrew Ficek, Committee Clerk*



25.0928.01002  
Title.

Prepared by the Legislative Council  
staff for Senator Hogan  
January 27, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### SENATE BILL NO. 2164

Introduced by

Senators Dever, Cleary, Lee, Roers

Representatives Klemin, Karls

1 A BILL for an Act to amend and reenact section 6-08.1-03 of the North Dakota Century Code,  
2 relating to the duty of confidentiality and disclosure to the North Dakota protection and  
3 advocacy project.

#### 4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1. AMENDMENT.** Section 6-08.1-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

##### 7 **6-08.1-03. Duty of confidentiality.**

8 A financial institution may not disclose customer information to a person, governmental  
9 agency, ~~or law enforcement agency, or the protection and advocacy project,~~ unless the  
10 disclosure is made in accordance with any of the following:

- 11 1. Pursuant to consent granted by the customer in accordance with this chapter.
- 12 2. To a person other than a governmental agency or law enforcement agency pursuant to  
13 valid legal process.
- 14 3. To a governmental agency or law enforcement agency pursuant to valid legal process  
15 in accordance with this chapter.
- 16 4. For the purpose of reporting a suspected violation of the law in accordance with this  
17 chapter.
- 18 5. For the purpose of notifying the agriculture commissioner a financial institution has  
19 notified a customer of the availability of the North Dakota mediation service.



- 1       6. As part of the disclosure made of deposits of public corporations with financial  
2       institutions in the security pledge schedule verified by the custodian of securities  
3       pursuant to section 21-04-09.
- 4       7. For purposes of reporting suspected exploitation of an eligible adult as defined by  
5       section 12.1-31-07. This subsection may not be construed to impose a duty on a  
6       financial institution to investigate an alleged or suspected exploitation of an eligible  
7       adult or to make a report to a governmental agency or law enforcement agency.
- 8       8. For purposes of reporting suspected financial exploitation of an eligible adult under  
9       chapter 6-08.5 to a law enforcement agency, the protection and advocacy project  
10      under chapter 25-01.3, or the department of health and human services. This  
11      subsection may not be construed to impose a duty on a financial institution to  
12      investigate a suspected financial exploitation of an eligible adult or to make a report to  
13      the department of health and human services ~~or~~ law enforcement agency, or the  
14      protection and advocacy project.
- 15      ~~9. For purposes of investigating suspected abuse, neglect, or financial exploitation of an~~  
16      ~~individual with a disability under chapter 25-01.3 by the protection and advocacy~~  
17      ~~project. The protection and advocacy project may access financial records from~~  
18      ~~financial institutions to fulfill the mandate under chapter 25-01.3. Disclosure under this~~  
19      ~~subsection is limited to the extent necessary for the protection and advocacy project to~~  
20      ~~carry out investigatory functions and is subject to the confidentiality requirements~~  
21      ~~under section 25-01.3-10. This does not impose a duty on a financial institution to~~  
22      ~~investigate suspected abuse, neglect, or exploitation of an individual with a disability or~~  
23      ~~to make a report to the protection and advocacy project.~~

# 2025 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Fort Lincoln Room, State Capitol

SB 2164  
1/28/2025

Relating to the duty of confidentiality and disclosure to the North Dakota protection and advocacy project.

2:26 p.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

### Discussion Topics:

- New bank guidelines
- Inconsistent interpretation

2:28 p.m. Senator Hogan moved to adopt amendment LC#25.0928.01002

2:28 p.m. Senator Clemens seconded the motion.

Senators	Vote
Senator Judy Lee	Y
Senator Kent Weston	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Desiree Van Oosting	Y

2:29 p.m. Motion passed 6-0-0.

2:30 p.m. Senator Hogan moved Do Pass as amended.

2:30 p.m. Senator Weston seconded the motion.

Senators	Vote
Senator Judy Lee	Y
Senator Kent Weston	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Desiree Van Oosting	Y

2:31 p.m. Motion passed 6-0-0.

2:31 p.m. Senator Hogan will carry the bill.

2:31 p.m. Chairman Lee closed the hearing.

*Andrew Ficek, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**SENATE BILL NO. 2164**

Introduced by

Senators Dever, Cleary, Lee, Roers

Representatives Klemin, Karls

*JB*  
*1-28-25*  
*10/2*

1 A BILL for an Act to amend and reenact section 6-08.1-03 of the North Dakota Century Code,  
2 relating to the duty of confidentiality and disclosure to the North Dakota protection and  
3 advocacy project.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 6-08.1-03 of the North Dakota Century Code is  
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8 A financial institution may not disclose customer information to a person, governmental  
9 agency, or law enforcement agency, ~~or the protection and advocacy project~~, unless the  
10 disclosure is made in accordance with any of the following:

- 11 1. Pursuant to consent granted by the customer in accordance with this chapter.
- 12 2. To a person other than a governmental agency or law enforcement agency pursuant to  
13 valid legal process.
- 14 3. To a governmental agency or law enforcement agency pursuant to valid legal process  
15 in accordance with this chapter.
- 16 4. For the purpose of reporting a suspected violation of the law in accordance with this  
17 chapter.
- 18 5. For the purpose of notifying the agriculture commissioner a financial institution has  
19 notified a customer of the availability of the North Dakota mediation service.

13 2012

- 1       6. As part of the disclosure made of deposits of public corporations with financial
- 2       institutions in the security pledge schedule verified by the custodian of securities
- 3       pursuant to section 21-04-09.
- 4       7. For purposes of reporting suspected exploitation of an eligible adult as defined by
- 5       section 12.1-31-07. This subsection may not be construed to impose a duty on a
- 6       financial institution to investigate an alleged or suspected exploitation of an eligible
- 7       adult or to make a report to a governmental agency or law enforcement agency.
- 8       8. For purposes of reporting suspected financial exploitation of an eligible adult under
- 9       chapter 6-08.5 to a law enforcement agency, the protection and advocacy project
- 10      under chapter 25-01.3, or the department of health and human services. This
- 11      subsection may not be construed to impose a duty on a financial institution to
- 12      investigate a suspected financial exploitation of an eligible adult or to make a report to
- 13      the department of health and human services ~~or~~, law enforcement agency, or the
- 14      protection and advocacy project.
- 15      ~~9. For purposes of investigating suspected abuse, neglect, or financial exploitation of an~~
- 16      ~~individual with a disability under chapter 25-01.3 by the protection and advocacy~~
- 17      ~~project. The protection and advocacy project may access financial records from~~
- 18      ~~financial institutions to fulfill the mandate under chapter 25-01.3. Disclosure under this~~
- 19      ~~subsection is limited to the extent necessary for the protection and advocacy project to~~
- 20      ~~carry out investigatory functions and is subject to the confidentiality requirements~~
- 21      ~~under section 25-01.3-10. This does not impose a duty on a financial institution to~~
- 22      ~~investigate suspected abuse, neglect, or exploitation of an individual with a disability or~~
- 23      ~~to make a report to the protection and advocacy project.~~



**REPORT OF STANDING COMMITTEE  
SB 2164**

**Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS** ([25.0928.01002](#)) and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2164 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

**2025 HOUSE HUMAN SERVICES**

**SB 2164**



# 2025 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

SB 2164

3/5/2025

Relating to the duty of confidentiality and disclosure to the North Dakota protection and advocacy project.

4:17 p.m. Chairman M. Ruby opened the hearing.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Davis, Dobervich, Fegley, Hendrix, Holle, Kiefert, Rios, Rohr

### Discussion Topics:

- Disclosure statements

4:17 p.m. Brad Peterson, Legal Advisor, Protection and Advocacy, testified in support.

4:20 p.m. Representative Beltz moved a Do Pass.

4:20 p.m. Representative Holle seconded the motion.

Representatives	Vote
Representative Matthew Ruby	Y
Representative Kathy Frelich	Y
Representative Karen Anderson	Y
Representative Mike Beltz	Y
Representative Macy Bolinske	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Cleyton Fegley	Y
Representative Jared Hendrix	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Nico Rios	Y
Representative Karen Rohr	Y

4:21 p.m. Motion passed 13-0-0.

Representative Holle will carry the bill

### Additional written testimony:

Veronica Zietz, Executive Director of the North Dakota Protection & Advocacy Project, submitted testimony in favor #38907.

4:21 p.m. Chairman M. Ruby closed the hearing.

*Jackson Toman, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED SB 2164 ([25.0928.02000](#))**

**Human Services Committee (Rep. M. Ruby, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2164 was placed on the Fourteenth order on the calendar.



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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.

Brad Peterson  
P&A Legal Director  
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