

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2096

2001 SENATE HUMAN SERVICES

SB 2096

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2096

Senate Human Services Committee

Conference Committee

Hearing Date January 15, 2001

Tape Number	Side A	Side B	Meter #
1		X	23.8
Committee Clerk Signature <i>Paul Kolodziejchuk</i>			

Minutes:

The hearing of SB 2096 was opened by SENATOR LEE.

LINDA WRIGHT, Aging Services Division, Department of Human Services, introduced the bill and supports the bill. (Written testimony)

SENATOR MATHERN stated that just because the fiscal note has \$0 does not mean it doesn't cost anything.

SENATOR LEE commented that section a refers to children and section b refers to adults.

MS. WRIGHT: We discovered that we were required to do state background checks on adult foster care and that was not in the budget, but because we only had 108 adult foster care homes we were able to handle the processing of those within our existing budget. We felt we could continue to pay for those background checks within our existing budget; there wasn't anything added to the budget, so as long as our budget is not significantly reduced we could cover that in our budget.

JOHN GRAHAM, Director of Burleigh County Social Services, supports the bill. (Written testimony) SENATOR MATHERN: It is positive to bring things together. What about the 11 years? JEAN DAHL, Manager of the Foster Care Program for Children, stated that the number 11 was arrived at prior to the last session when that huge bill that was in response to the adoption of the Safe Families Act and we had a work group made up of law enforcement people to help us determine what was realistic and they figured that if we had an 11 year address history then we would capture most of the relevant offenses and it has worked quite well.

JERRY KEMMET, Director of BCI supports bill and has no concern about additional cost or work involved.

The hearing was closed on SB 2096.

SENATOR MATERN moved a DO PASS. SENATOR FISCHER seconded it. Roll call vote carried 6-0. SENATOR KILZER will carry the bill.

**FISCAL NOTE**  
 Requested by Legislative Council  
 12/26/2000

Bill/Resolution No.: SB 2096

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill provides clarification as to when both statewide and nationwide background checks are required for any individual employed by or providing care in an Adult Family Foster Care (AFFC) home and any adult living in the home, but not being provided care. It also includes an exemption from background checks for AFFC homes continuously licensed or approved since August 1, 1999. The Department is currently contracting for state and nationwide background checks as outlined in this bill.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

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<b>Name:</b>	Brenda M. Welsz	<b>Agency:</b>	Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	01/03/2001



**REPORT OF STANDING COMMITTEE (410)**  
January 15, 2001 3:04 p.m.

**Module No: SR-05-1004**  
**Carrier: Kilzer**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2096: Human Services Committee (Sen. Lee, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2096 was placed on the**  
**Eleventh order on the calendar.**

2001 HOUSE HUMAN SERVICES

SB 2096

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2096

House Human Services Committee

Conference Committee

Hearing Date February 14, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		0 to 1836
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig

Chairman Price: Opened hearing on SB 2096

Linda Wright: Director, Aging Services Division, Department of Human Services. (See support of SB 2096 in written testimony.) In a series of joint meetings a review of the Century Code revealed inconsistencies between child foster care and adult foster care and adult foster care in regard to national background checks and grandfathering in homes licensed or approved as of August 1, 1999. The changes included in this bill bring adult family foster care into better alignment with foster care for children. In addition, the recommended changes address the issues of client safety. There is no fiscal note attached to this bill. The costs associated with the criminal background checks are covered in the budget authority of the Aging Service Division.

John Graham: Director of Burleigh County Social Services. (See support of SB 2096 in written testimony.) This bill would coordinate the criminal background check provisions relating to adults in the adult foster care settings with those currently exist with respect with adults in child foster care settings. The bill would require statewide criminal history investigations on any adult that is living in or providing care in an adult family foster care setting. There are 108 adult family foster care homes in the state. Fifteen are in Burleigh County. The bill would also require fingerprinting and a national criminal background check on adults who haven't lived in North Dakota for at least 11 years, or continuously since turning 18, or who are not in the armed services on active duty, or are otherwise excused under rules adopted by the department. These background checks and any required fingerprinting would be the Department of Human Services' responsibility to secure. The department is also required to pay for the statewide checks.

Rep. Weisz: In Section 1 you're adding adults as far as foster care, and that seems fairly clean, but then in Section 2 you specify children instead of just saying foster care. Is the intent of Section 2 to take adults foster care out of the ability not to have fingerprints in some instances? This would mean that for adults in foster care this provision wouldn't apply, is that the intent of Section 2?

John Graham: The intent of Section 2 is to split the provisions for children in foster care and adult foster care. If you look on page 2, lines 1 through 5, you will see coordinate language that relates to adult family foster care settings. What you have now in that section would be a subsection relating to child foster care.

Rep. Weisz: Why do we want to put the two in this when earlier we were kind of putting them all together as far as foster care, and now we are splitting them?

Rep. Price: In one it is the facility shall secure, and the other is the department shall secure. Is that the only difference?

John Graham: That seems to be the difference.

Linda Wright: The reason for the difference is that in Section 2 you will notice it says "any individual employed by the facility", and in child foster care that may be the case, but in adult foster care that is not an employer-employee situation. Those are qualified service providers. I believe our Legal Counsel felt it was best to keep those two sections separate, because the difference in the employer-employee relationship versus the qualified service providers.

Chairman Price: But in the case of an adult foster care in someone's home, aren't there situations where they may ask someone or hire someone for 12 hours, 24 hours, whatever the reason may be, so they are employed.

Linda Wright: That is true. They aren't worried about that. It does state an individual employee providing care for adult family foster care, so that is addressed in there, so it would cover that situation.

Rep. Weisz: The way I read this, Section 2 allows some provisions for not needing a fingerprint. What this does is eliminate that provision when it comes to adult foster care. Because it is now specific to children. So we have eliminated that provision in Section 1.a., correct?

Linda Wright: My understanding is that prior to this it was not clear that the same requirement would be made for adult foster care as it is for child foster care in regard to criminal background check. This is to correct that so it is required for both.

Rep. Weisz: With the legal language now you've made it very clear that it only for children and doesn't apply to adults, because the original language says each facility providing foster care, it doesn't delineate between adults and children. Now you've said each facility providing foster

care for children, well that eliminates adults. So you've now made it specific to children in this new language.

Linda Wright: But then item "b" on top of page 2 was added, which is exactly the same phrasing, it does now includes adults. So what it did was delineate children in one section and adults in the other, but the provisions are the same.

Rep. Weisz: What was the need?

Linda Wright: Because adults were not addressed before in regards to national background checks, only children.

Rep. Weisz: Do we have a definition for foster care somewhere in the Code, and that is not specific to children only?

Linda Wright: There is a definition for a family foster care, it is all in Chapter 50-11.

John Graham: I think I can explain it if you'll look at page 3, lines 14-18. That section is referenced. If you look at the section as it exists now it says "it exempts foster family care homes for children, so of you go back to page 1, line 18-19, the opening six words - how it was being interpreted was because there was a provision in 50-11-06.9 that was referenced here than it was being interpreted applying only to child foster care settings.

Rep. Weisz: So 06.9 was referring strictly to children.

John Graham: Right. That was how the legal persons were arriving at the conclusion, 11-02.4 only referred to children.

Rep. Weisz: I assume in page 3, .06.8 and .02.4 one is the children's section and one is the adult's section.

John Graham: Yes.

Rep. Metcalf: On line 19, page 1 it says "each facility providing foster care", and on line 1, page 2 it says "the department", so we are putting the responsibility in two different areas, is that correct?

John Graham: That is correct. The adult family foster care provisions relate entirely to home-based operations. The child foster care there are facilities. There are no adult family foster care facilities.

Rep. Cleary: I just wondered, why 11 years?

John Graham: We did tack on to what was existing in the law. I don't know what the legislative history of 11 years?

Rep. Devlin: Under the law as I read it, with the 11 year exemption, if I'm running an adult foster care in my home and my 94 year old Grandmother come back to live with me but is not cared for as part of the foster care program I'd have to drive her to police station and have her fingerprinted, correct?

John Graham: That is correct.

Rep. Weisz: Just to clarify defining children's facilities, do you define facility as anybody providing foster care? Are we including those just individuals that are providing foster care in this provision?

John Graham: No.

Ms. Vollan: I believe it is defined as either a home or a facility such as residential child care facility.

Ms. Vollan: If I wanted to be a foster care provider, what do I have to go through if I say I'll take one or two children.

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House Human Services Committee  
Bill/Resolution Number SB 2096  
Hearing Date February 14, 2001

Ms. Vollan: The way it operates in terms of the background check is that if the county or the licensing agency initiates it.

Chairman Price: What do they check, do I do fingerprint check?

Ms. Vollan: It depends on the issue that Rep. Cleary brought up about 11 years in state.

Chairman Price: Close the hearing on SB 2096.

**COMMITTEE WORK:**

Chairman Price: Let's go to SB 2096.

Rep. Metcalf: I move that we DO PASS.

Rep. Porter: I second it.

Chairman Price: I have a motion on a DO PASS on SB 2096. I will ask the clerk to call the roll.

**MOTION FOR A DO PASS**

**10 YEAS, 3 NAYS, 1 ABSENT**

**CARRIED BY REP. NIEMEIER**

Date: 2-14-01  
 Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2096

House Human Services Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Metcalf Seconded By Porter

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary	✓	
Rep. William Devlin, V, Chairman		✓	Rep. Ralph Metcalf	✓	
Rep. Mark Dosch			Rep. Carol Niemeier	✓	
Rep. Pat Galvin	✓		Rep. Sally Sandvig	✓	
Rep. Frank Klein		✓			
Rep. Chet Pollert		✓			
Rep. Todd Porter	✓				
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Niemeier

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 14, 2001 10:49 a.m.

**Module No: HR-27-3295**  
**Carrier: Niemeier**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2096: Human Services Committee (Rep. Price, Chairman) recommends DO PASS**  
**(10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2096 was placed on the**  
**Fourteenth order on the calendar.**

2001 TESTIMONY

SB 2096

SB 2096 11 am Red River Room

Chairman Lee & members of the Committee, my name is Margaret Kötter. I am an active member of R-KIDS. After reading this bill I feel the Dept of H&S is getting more power and I must ask why does the Dept of Human Serv need this power. If the facility has accomplished the appropriate investigation then why is it that the Dept may secure from any individual etc upon request from any interested party as well in Section 3. The Dept may secure from a law enforcement etc upon request of <sup>any</sup> interested party.

Margaret Kötter  
2580-8437  
rmkottre@btigate.com

**Testimony on Senate Bill No. 2096**

**Presented by John A. Graham  
County Director  
Burleigh County Social Services**

**Presented to the Senate Committee on Human Services  
Monday, January 15, 2001**

Chairperson Lee, members of the Senate Human Services Committee, my name is John Graham, the Director of Burleigh County Social Services. I am testifying in support of Senate Bill No. 2096.

Senate Bill No. 2096 arose out of the discussions of a small group of concerned State and county employees interested in the quality and appropriateness of services provided to fragile elderly persons in Adult Family Foster Care settings. There are approximately 108 licensed Adult Family Foster Care homes in North Dakota, and 15 of those are in Burleigh County.

While the small group discussed several issues concerning the quality of care, this bill focuses on requiring a "statewide criminal history record investigation" on any adult living in or providing care in the home, other than the adults receiving the care. In addition, this bill would require fingerprinting and a national criminal background check on any such adults who:

1. Haven't lived in North Dakota for at least 11 years, or continuously since turning 18; or
2. Who are not in the Armed Services on active duty; or
3. Are otherwise excused under rules adopted by the Department.

These background checks and any required fingerprinting would be the Department of Human Services' responsibility to secure. The Department is also required to pay for the statewide checks.

You'll note that these new provisions are proposed here by amendment to Chapter 50-11, which chapter also covers the licensing of child foster care homes. Thus, this bill would apply the same criminal background check requirements to Adult Family Foster Care homes as are currently applied to child foster care homes.

Finally, the bill, in Section 5, "grandfathers" in Adult Family Foster Care homes which were licensed, and remain licensed on and after August 1, 1999.

I request that you give this bill a "do pass" recommendation. I would be happy to answer the Committee's questions.

**Senate Committee on Human Services**

**Testimony on Senate Bill No. 2096**

**January 15, 2001**

**Chairman Lee and members of the Senate Human Services Committee, my name is Linda Wright, Director, Aging Services Division, Department of Human Services. I am testifying in support of Senate Bill 2096 on behalf of the Department of Human Services.**

**A series of joint meetings between the Aging Services Division, West Central Human Service Center, and Burleigh County Social Services regarding adult family foster care issues led to review of the current North Dakota Century Code Chapter 50-11. The review of the Century Code revealed inconsistencies between child foster care and adult foster care in regard to national background checks and grandfathering in homes licensed or approved as of August 1, 1999.**

**The changes included in this bill bring adult family foster care into better alignment with foster care for children. In addition, the recommended changes address the issues of client safety. There is no fiscal note attached to this bill. The costs associated with the criminal background checks are covered in the budget authority of the Aging Services Division.**

**John Graham, Director, Burleigh County Social Services, will provide additional comments in support of Senate Bill No. 2096.**

**If you have any questions, I would be happy to answer them at this time.**