

2015 SENATE HUMAN SERVICES

SB 2064

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2064
1/12/2015
Job #21820

- Subcommittee
 Conference Committee

Donald Mueller



Explanation or reason for introduction of bill/resolution:

Relating to a foster care agreement with an agency or tribal council of a recognized Indian reservation in North Dakota.

Minutes:

Attach #1 - Testimony of Dean Sturn, Department of Human Services
Attach #2 - Proposed Amendments to SB 2064 from Sturn

Testimony IN FAVOR of SB 2064.

Testimony by **Dean Sturn**, Foster Care Administrator for Department of Human Services Family Services Division spoke IN FAVOR of SB 2064. (1:33) Attachment #1 is Testimony, Attachment #2 are proposed amendments.

Acronym Definition - APPLA: Another Planned Permanent Living Arrangement

Testimony ends (6:25)

Chairman Judy Lee asked if the federal bill applies to all foster care or just tribal agreements?

Mr. Sturn replied that it applies to all foster care.

Chairman Judy Lee we were looking for permanent solutions for children, 18 or 24 months, and now we are looking at something other than family placement to get to the APPLA can't be until age 16. How many different foster care settings does a child have to be in before they get to be 16 and the courts decide that its okay for them to go into a more permanent setting? The whole goal of the old federal law was that something would happen sooner so that this child didn't have so much disruption.

Mr. Sturn indicated that is exactly what the federal government is trying to accomplish, to not put APPLA as a permanency goal meaning that they are going to be in foster care and they are not looking toward adoption or guardianship or relative. They are doing this so you don't have an 8 year old with another plan permanent living arrangement as their

permanency goal, and they quit looking for adoption or guardianship placements. They're wanting youth who is 16 or older to be able to say here is why I'm in another permanent living arrangement. The ruling is not that I want to be with another family - I have a bond with this foster care family and do not want to be adopted. Hopefully this will result in less placements so the kids aren't bounced around as much.

Chairman Judy Lee asked about minor under 18, they had to agree if they wanted to be with the foster care family for the next 3 years. How does this change what has been done recently with the young people who reach the age of 18 but might want to continue to be connected with that family under the optional situation that we've had recently?

Mr. Sturn indicated it does not necessarily change that. The child can still voluntarily enter foster care after the age of 18, and remain with that family. That is how the APPLA permanency goal would fit in. The family didn't necessarily want to adopt or the child or the child didn't want to be adopted or become their guardians, they can sign themselves into continued care on a voluntary basis and continue getting served and living with that family.

Chairman Judy Lee discussed the child being 17, but someone who reached the age of 18 but still really had connected with whoever their foster family was and wanted help, like deposits for apartments, community college, drivers license, etc. So this is intended to streamline some of this so this may result in fewer placements and continuity with the family with whom they have been placed past their 18th birthday if they choose it.

Mr. Sturn answered that would be the hope, and children would be participating in independent living classes, which are required, that their independent needs are being assessed and addressed through the custodian, and they are learning the skills for renting, etc.

V. Chairman Oley Larsen asked on the last page of proposed amendments, you struck out the grandparents, what is the reason for this? Sometimes grandparents are raising grandkids more today.

Mr. Sturn answered that the strike mirrors the federal language, but at the top, it is added later.

Chairman Judy Lee asked what wouldn't we like about this?

Mr. Sturn indicated it is federal law, they are broadening the number of people that are going to be placement options for these children entering foster care.

Chairman Judy Lee indicated that this is not just for the tribal council but for everyone.

Mr. Sturn answered yes.

Ends Mr. Sturn testimony and discussion (13:02).

No further testimony IN FAVOR of SB 2064

Senate Human Services Committee
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Page 3

Opposed to SB 2064

No one opposed SB 2064

Neutral to SB 2064

No one neutral to SB 2064.

Public hearing closed (13:26)

No Discussion

Senator Warner made motion to amend SB 2064, as proposed amendments by Mr. Sturn.
Seconded by Senator Howard Anderson, Jr. to amend. No further discussion.

Roll Call Vote: 6 Yes, 0 No, 0 absent to amend SB 2064.

Senator Warner made motion to "Do Pass" with amendments for SB 2064.

Seconded by V. Chairman Oley Larsen.

No further committee discussion.

Roll Call Vote: 6 yes, 0 No, 0 absent to "Do Pass" SB 2064 as amended.

Carried by V. Chairman Oley Larsen

January 12, 2015

1 of 3
TD
1/12/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2064

Page 1, line 1, after "reenact" insert "subsection 15 of section 27-20-02,"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "27-20-30.1" insert "and 27-20-38"

Page 1, line 2, after "to" insert "the definition of permanency hearing,"

Page 1, line 3, after "Dakota" insert "and the rights and duties of legal custodian"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 15 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:
 - a. Whether and, if applicable, when the child will be returned to the parent;
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
 - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:
 - (1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement.
 - (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and

(3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;

- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
- h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living."

Page 2, after line 25, insert:

"SECTION 3. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

- 1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
- 2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
- 3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult relative suggested by the parents and grandparents, subject to exceptions due to family or domestic violence, that:
 - a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

- c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.
4. For purposes of this section, "sibling of the child entering foster care" means:
- a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent."

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2064**

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: Amendment proposed by Dean Stump, Attach #2

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Warner Seconded By Howard Anderson

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larson (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2064**

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: 15.8048.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Warner Seconded By Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larson (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Larsen

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

REPORT OF STANDING COMMITTEE

SB 2064: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2064 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection15 of section 27-20-02,"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "27-20-30.1" insert "and 27-20-38"

Page 1, line 2, after "to" insert "the definition of permanency hearing,"

Page 1, line 3, after "Dakota" insert "and the rights and duties of legal custodian"

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 - a. Whether and, if applicable, when the child will be returned to the parent;
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
 - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:
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 - (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and

- (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;
- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
- h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living."

Page 2, after line 25, insert:

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2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult relative suggested by the parents and grandparents, subject to exceptions due to family or domestic violence, that:
 - a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.

4. For purposes of this section, "sibling of the child entering foster care" means:
 - a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent."

Renumber accordingly

2015 HOUSE HUMAN SERVICES

SB 2064

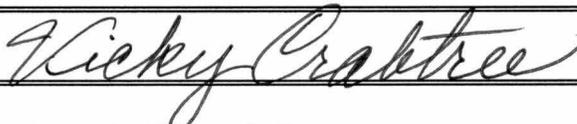
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2064
3/4/2015
Job #24295

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the definition of permanency hearing, a foster care agreement with an agency or tribal council of a recognized Indian Reservation in ND.

Minutes:

Testimony 1

Chairman Weisz opened the hearing on SB 2064.

Dean Sturn: Foster Care Administrator for DHS testified in support of the bill. (See Testimony #1)

7:00

Chairman Weisz: ON page 4 and 5 you were talking about siblings is that added to meet the federal public law or is it something you decided should be?

Sturn: That was added to meet the public law.

Chairman Weisz: What is a fictive brother or sister?

Sturn: It is defined as someone who is not related by blood, but within the community is seen as acting in a parental role. We may think of that as a pastor or a coach.

Rep. Mooney: This is to establish in our state statues to merry up with the federal statutes?

Sturn: That is accurate accept for the addition about the tribal council.

Chairman Weisz: On page 3, the court is to determine a, b, and c. Under c you added the language about the tribal. Are you saying the courts wouldn't have jurisdiction? I'm confused. Clarify the additional language.

Sturn: It means when the Tribe has the custody of the child they are not subject to the jurisdiction of courts in ND. They are subject to the tribal court jurisdiction. That language cleans up the ability of the tribal council or representatives to have the ability to enter into an 18 plus continued care agreement.

Chairman Weisz: The child ends up in our court somehow. Our court determines whether it should be in tribal court?

Sturn: I'll defer to Jonathan Alm.

Jonathon Alm: Attorney for DHS. We have a tribal foster state agreement and they have to follow certain procedures and rules. This could be a tribal court that issues and approves it through our tribal state agreement.

Chairman Weisz: The reference to the court could be either tribal court or ND?

Alm: That is correct.

NO OPPOSITION

Chairman Weisz closed the hearing on SB 2064.

Rep. Porter: I Move a Do Pass on SB 2064.

Rep. Hofstad: Second.

ROLL CALL VOTE: 11 y 0 n 2 absent

MOTION CARRIED

Bill Carrier: Rep. Mooney

Date: 3-4-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2064

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Porter Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	A	
Rep. Bert Anderson	✓		Rep. Oversen		
Rep. Dick Anderson	✓				
Rep. Rich S. Becker	A				
Rep. Damschen	✓				
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter	✓				
Rep. Seibel	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Mooney

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

REPORT OF STANDING COMMITTEE

SB 2064, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2064 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2064

Attachment #1 01/12/15
J# 21820
SB 2064

Testimony
Senate Bill 2064 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 12, 2015

Chairman Lee, members of the Senate Human Services Committee, I am Dean Sturn, Foster Care Administrator for the Department of Human Service's Children and Family Services Division. I am here today in support of Senate Bill 2064, which was introduced at the request of the Department. The Department is also proposing amendments to Senate Bill 2064 to address requirements that have arisen due to the recent passage of the federal "Preventing Sex Trafficking and Strengthening Families Act."

The proposed changes on page 1, lines 11 through 13 and page 2, lines 1 through 5, 14 through 15, and 18 through 19 are being made to recognize the role of an agency or tribal council of an Indian reservation in the provision of continued foster care services to a child over 18 years old. These changes relate to a tribal agency's or tribal council's ability to prepare an affidavit outlining the need for continued foster care services, to enter into a continued foster care agreement with the child and foster care provider, to continue case management for the child, and to retain care and placement responsibility of the child.

In addition, there is a proposed change on page 2, line 18 to remove the Division of Juvenile Services (DJS) as an agency that can retain care and placement responsibility of a child in need of continuing foster care services after the age of 18. Continued foster care services are for children who are not considered by the court to be delinquent or unruly.

While DJS can have custody of a child older than 18, DJS cannot have custody of children who are not identified by an order of the court as delinquent or unruly.

The change on page 2, line 24 is being proposed to correct an obsolete reference. North Dakota Rules of Juvenile Procedure, Rule 16, was adopted in March 2010 and superseded N.D.C.C. section 27-20-37.

As I indicated at the start of my testimony, the Department is proposing amendments to Senate Bill 2064 to comply with requirements of recently passed P.L. 113-183: the "Preventing Sex Trafficking and Strengthening Families Act."

The first proposed changes are to the definition of "permanency hearing" in N.D.C.C. 27-20-02, and are related to permanency hearings and the establishment of permanency goals for a child in foster care. Federally, there are five allowable permanency goal options for children placed in foster care. They are (1) to return home, (2) to be placed for adoption, (3) to be placed with legal guardians, (4) to be placed with fit and willing relatives, and (5) to be placed in Another Planned Permanent Living Arrangement (APPLA). The Preventing Sex Trafficking and Strengthening Families Act now requires that a foster child must be at least 16 years old to have a permanency goal of APPLA. It also requires the court to do three things during a permanency hearing when APPLA is the identified permanency goal for a child in foster care:

- (1) Ask the child about the desired outcome of APPLA.
- (2) Make a judicial determination explaining why APPLA is the best permanency plan for the child.

- (3) Provide compelling reasons why it continues to not be in the best interest of the child to work toward one of the other federally allowable permanency goals.

The changes proposed to the definition of "permanency hearing" in subsection 15 of N.D.C.C. 27-20-02 incorporate these requirements.

The proposed amendments to section 27-20-38 relate to the rights and duties of legal custodians of children in foster care. Legal custodians currently are required to notify certain people within 30 days of a child's removal from parents for the purposes of placing the child into foster care. The Preventing Sex Trafficking and Strengthening Families Act has clarified who must be notified and has added an additional notification requirement: notice to the custodial parents of siblings of the child entering foster care. To determine what constitutes a custodial parent of a sibling of a child entering foster care, the Department needed to define "sibling of the child entering foster care." The new subsection 4 to section 27-20-38 provides that definition.

This concludes my testimony. I would be happy to answer any questions. Thank you.

SB2064 #2 Attachment
J# 21820
01/12/2015
From Sturn

PROPOSED AMENDMENTS TO SENATE BILL NO. 2064

Page 1, line 1, replace "section" with "subsection 15 of section 27-20-02, and sections"

Page 1, line 1, after "27-20-30.1" insert "and 27-20-38"

Page 1, line 2, after "relating" insert "to the definition of "permanency hearing"; to"

Page 1, line 3, after "Dakota" insert "; and to providing notice to parents of siblings of a child placed in foster care"

Page 1, line 5, after the second period insert:

"Subsection 15 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:
 - a. Whether and, if applicable, when the child will be returned to the parent;
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
 - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged 16 or older, will be placed in another planned permanent living arrangement. The court shall:

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- (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and
- (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;

g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living.

SECTION 2. AMENDMENT."

Page 2, after line 25, insert:

"SECTION 3. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

- 1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
- 2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
- 3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of

the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult relative relatives of the child, including an adult relative of the child suggested by the parents and grandparents, subject to exceptions due to family or domestic violence, that:

- a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
- b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
- c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
- d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.

4. For purposes of this section, "sibling of the child entering foster care" means:

- a. A brother or sister who has at least one biological or adoptive parent in common;
- b. A fictive brother or sister with a significant bond as identified by the child or parent; or
- c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, such as a death of a parent."

Renumber accordingly

#1

Testimony
Engrossed Senate Bill 2064 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 4, 2015

Chairman Weisz, members of the House Human Services Committee, I am Dean Sturn, Foster Care Administrator for the Department of Human Service's Children and Family Services Division. I am here today in support of Engrossed Senate Bill 2064, which was introduced at the request of the Department.

Engrossed Senate Bill 2064 was initially introduced to provide clarification of roles to an agency or tribal council of an Indian reservation and was amended in the Senate to ensure North Dakota's compliance with requirements of recently passed P.L. 113-183: the "Preventing Sex Trafficking and Strengthening Families Act."

The first proposed changes on page 2, lines 1 through 10, are to the definition of "permanency hearing" in N.D.C.C. 27-20-02, and will help ensure North Dakota's compliance with P.L. 113-183. The changes are related to permanency hearings and the establishment of permanency goals for a child in foster care. Federally, there are five allowable permanency goal options for children placed in foster care. They are (1) to return home, (2) to be placed for adoption, (3) to be placed with legal guardians, (4) to be placed with fit and willing relatives, and (5) to be placed in Another Planned Permanent Living Arrangement (APPLA). The Preventing Sex Trafficking and Strengthening Families Act requires a foster child to be at least 16 years old to have a permanency goal of APPLA. It also requires the court to do three things during a permanency

hearing when APPLA is the identified permanency goal for a child in foster care:

- (1) Ask the child about the desired outcome of APPLA.
- (2) Make a judicial determination explaining why APPLA is the best permanency plan for the child.
- (3) Provide compelling reasons why it continues to not be in the best interest of the child to work toward one of the other federally allowable permanency goals.

The changes proposed to the definition of "permanency hearing" in subsection 15 of N.D.C.C. 27-20-02 incorporate these requirements.

The proposed changes to N.D.C.C. 27-20-30.1 on page 2, lines 27 through 28 and page 3, lines 10 through 14, 23 through 24, and 27 through 28 are being made to recognize the role of an agency or tribal council of an Indian reservation in the provision of continued foster care services to a child over 18 years old. These changes relate to a tribal agency's or tribal council's ability to prepare an affidavit outlining the need for continued foster care services, to enter into a continued foster care agreement with the child and foster care provider, to continue case management for the child, and to retain care and placement responsibility of the child.

In addition, there is a proposed change on page 3, line 27 to remove the Division of Juvenile Services (DJS) as an agency that can retain care and placement responsibility of a child in need of continuing foster care services after the age of 18. Continued foster care services are for children who are not considered by the court to be delinquent or unruly. While DJS can have custody of a child older than 18, DJS cannot have

custody of children who are not identified by an order of the court as delinquent or unruly.

The change on page 4, line 3 is being proposed to correct an obsolete reference. North Dakota Rules of Juvenile Procedure, Rule 16, was adopted in March 2010 and superseded N.D.C.C. 27-20-37.

The proposed changes to N.D.C.C. 27-20-38 will also help ensure North Dakota's compliance with P.L. 113-183. The changes relate to the rights and duties of the legal custodians of children in foster care. Legal custodians currently are required to notify certain people within 30 days of a child's removal from parents for the purposes of placing the child into foster care. The Preventing Sex Trafficking and Strengthening Families Act has clarified who must be notified and has added an additional notification requirement: notice to the custodial parents of siblings of the child entering foster care. To determine what constitutes a custodial parent of a sibling of a child entering foster care, the Department needed to define "sibling of the child entering foster care." The new subsection 4 to N.D.C.C. 27-20-38 on page 5, lines 3 through 8, provides that definition.

This concludes my testimony. I would be happy to answer any questions. Thank you.