

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1390

2007 HOUSE HUMAN SERVICES

HB 1390

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1390

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: 1623

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price opens the hearing on HB 1390.

Representative James Kersman, District 31: See attached testimony. The attachment to the testimony came from the department.

Representative Porter: The three items of concern on line 11. The fiscal note the department said that each one of those would cost 78,000 dollars, plus the 4th being the general liability. Would you have any problem reducing it down to just covering vehicles?

Representative Kersman: We would be willing to look at anything. I just think there should be some thing. The children are awards of the state, and the foster parents don't have the means. Putting the burden on the foster parents would soon result in less foster parents.

Representative Kaldor: The policy itself would be a liability policy for each licensed family foster care home. So it is not exactly like department is taking out insurance on the foster care child. The family is being covered by a policy. What if there gets to be a dispute that requires potential litigation? Would it be better if the policy followed the child?

Representative Kerzman: My intention was to follow the child. I just wanted liability on the child. I would not object to you looking at, if the foster family has coverage and the state picks up the deductible.

Senator Aaron Krauter, Dist 31: As we look at the budget relating to human services foster care, and you list some issues that parents have developed that want to be foster parents.

There is a sincere appreciation for them. We need to provide coverage so we are able to get more foster parents. I respect your wisdom to make these changes.

Shari Doe, Director of Burleigh Social Services: See attached testimony. We do tell new foster families to use home owners first. The question, if someone would have been hurt, I don't know what would have happened. We have been fortunate that has not happened.

Representative Porter: When this is all said and done, could you go back to the ND insurance reserve fund, or the county commissioners to do an over view of the coverage of the policy, where the hole was in the policy that didn't allow for this?

Ms Doe: Yes I have spent a lot of time on the phone.

Paul Ronningen, Director of the Children and Family Services Division of the Department of Human Services: See testimony attached, and Foster Care Children Self-Insurance program. We have not had a conversation with the Insurance Reserve about going to the reserve fund verses our insurance in house. What if someone would be killed? I don't know I am not an attorney, but anyone can be sued.

Representative Porter: When you reviewed the Montana statute, did the Department with the caps and limits and the umbrella that are put into place on the amounts payable out. Did the Department look at the amount of money in the self insurance fund that it would take to have a similar type provision for ND?

Mr. Ronningen: We just became aware of that in the last couple days, and have not priced any out. Insurance premiums for foster care have accelerated with a lot of sexual abuse claims nationally.

Representative Conrad: Have you had claims for water vehicles or aircraft? I would also be interested in Insurance Reserve coverage for child and foster parent.

Don Snyder: As far as I know we have not had damage on either.

Chairman Price: Any other testimony on HB 1390? We will close HB 1390

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1390

House Human Services Committee

Check here for Conference Committee

Hearing Date: Jan 24, 2007

Recorder Job Number: 1856

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: Take out HB 1390.

Committee discusses do we take out the water craft and aircraft. Would that mean we would have to look at a separate policy? Read the Montana plan. It has an umbrella plan and has a maximum payout. It does have a deductible per claim and also tells the family that just because this is in place doesn't mean you don't need Insurance. There is money there they just need some direction on how to use it. We will get some amendments drawn up, possibly putting it in a revolving account, and check with appropriations.

Chairman Price: The committee is dismissed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1390

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2216

Committee Clerk Signature

Judy Dehock

Minutes:

Chairman Price: Take out HB 1390.

Representative Porter: In our discussions, we were looking at the Montana Program it didn't fit very well. I will go through the attached amendments. I have no ownership to them.

Paul Ronningen with DHS: he helps committee with some changes. We would proceed with the 20,000.dollars.

Work with intentional and non intentional act is a concern to the committee. The committee continues to work on language.

Representative Weisz moves the amendments, **Representative Potter** seconds. The verbal vote is all yeas. **Representative Hofstad** moves a do pass as amended. **Representative Harlestad** seconds the motion. The vote is 11 yeas 0 nays and 1 absent. **Representative Hatlestad** will carry the bill to the floor.

FISCAL NOTE
Requested by Legislative Council
03/02/2007

Amendment to: Engrossed
 HB 1390

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$11,180		\$11,180
Expenditures			\$8,820	\$11,180	\$8,820	\$11,180
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill requires the Department to provide liability coverage for every licensed family foster care home. The coverage is for property damage which is caused by the act of a foster child.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The department already provides liability coverage through "self-insurance" for foster parents. This amendment requires changes to the policy to allow for coverage of acts of foster children. This bill also changes the deductible from \$250 to \$100, the maximum payout per claim from \$2,000 to \$5,000 and the maximum payout per claimant from \$5,000 to \$10,000.

Based on historical claims experience the Department is estimating that the fiscal impact of this bill would be \$20,000. The Department's 2007-09 budget contains \$20,000 for the payment of these types of claims.

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.*

The other funds revenues are the federal Foster Care funds that would be available to be matched with the general fund dollars for the payment of any claims.

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.*

The estimated expenditures of \$20,000 would consist of \$8,820 of general fund dollars and \$11,180 of federal funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Senate Bill 2012 contains \$20,000 for the payment of these types of claims so no additional appropriation authority is needed.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	03/02/2007

FISCAL NOTE

Requested by Legislative Council

01/31/2007

Amendment to: HB 1390

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$11,180		\$11,180
Expenditures			\$8,820	\$11,180	\$8,820	\$11,180
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill requires the Department to provide liability coverage for every licensed family foster care home. The coverage is for property damage to the property of the foster parent, which is caused by intentional or unintentional acts of a foster child placed in their care.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The department already provides liability coverage through "self-insurance" for foster parents. This amendment requires changes to the policy to allow for coverage of intentional acts or omissions of foster children placed in their care. This bill also changes the deductible from \$250 to \$100, the maximum payout per claim from \$2,000 to \$5,000 and the maximum payout per year/per family from \$5,000 to \$10,000.

Based on historical claims experience the Department is estimating that the fiscal impact of this bill would be \$20,000. The Department's 2007-09 budget contains \$20,000 for the payment of these types of claims.

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.*

The other funds revenues are the federal Foster Care funds that would be available to be matched with the general fund dollars for the payment of any claims.

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.*

The estimated expenditures of \$20,000 would consist of \$8,820 of general fund dollars and \$11,180 of federal funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Senate Bill 2012 contains \$20,000 for the payment of these types of claims so no additional appropriation authority is needed.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	01/31/2007

FISCAL NOTE

Requested by Legislative Council

01/15/2007

Bill/Resolution No.: HB 1390

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$354,048		\$375,610
Expenditures			\$279,312	\$354,048	\$296,322	\$375,610
Appropriations			\$270,492	\$342,868	\$296,322	\$375,610

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill requires the Department to provide liability insurance coverage for every licensed family foster care home. The insurance is to cover property damage to the property of the foster parent, which is caused by intentional or unintentional acts of a foster child placed in their care.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill directs the department to obtain general liability insurance coverage as well as coverage to include property damage caused by the foster child which arises out of the operation or use of a motor vehicle, aircraft, or watercraft and any property damage that results from dishonest, fraudulent, criminal, or malicious conduct by the foster child. At this time a comprehensive policy is not obtainable for all four levels of coverage. The coverage mentioned in the bill would require four separate policies. A policy for general liability exists while policies would have to be developed for motor vehicle, aircraft, and watercraft liability. The amounts included in this fiscal note represent the cost of obtaining four separate policies. The amount is based on the last quoted price of the general liability policy which was \$78,000. The other three policies will cost a minimum of \$78,000 each. The policies would not require a per claim deductible paid by the foster parents or submission of a claim to a private insurer before the department's coverage is provided.

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.*

Other fund revenues would include federal Foster Care IV-E funds in 2007-2009 of \$354,048 and \$375,610 in 2009-2011.

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.*

The expenditure amounts listed above include the cost of obtaining four separate insurance policies for the 849 licensed family foster care homes with a total cost for the 2007-2009 biennium of \$633,360.

The cost for the 2009-2011 biennium is \$671,932

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

The Department of Human Services would need a general fund appropriation of \$270,492 and other funds appropriation of \$342,868 for the 2007-2009 biennium. The 2007-2009 appropriation is \$8,820 (general funds) and \$11,180 (other funds) less than the expenditures due to funding contained in the 2007-2009 budget for these types of claims.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	01/19/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1390

Page 1, line 2, remove "insurance"

Page 1, replace lines 6 through 16 with:

"Department to provide liability coverage.

1. The department shall provide liability coverage for the intentional and unintentional acts or omissions of foster children placed in the care of foster families. The department may provide this liability coverage through self-insurance.
2. The liability coverage under this section:
 - a. *or a 3rd family* Must provide coverage for damage to the property of a foster family which is caused by the intentional acts of the family's foster child. This coverage must be for the lesser of the reasonable cost to repair or to replace the damaged property and must include a deductible in an amount not to exceed one hundred dollars per claim.
 - b. *Must* May not provide coverage for damage to the property of a foster family which is caused by the unintentional acts of the family's foster child.
 - c. Is secondary to any other coverage the foster family may have for claimed losses.
 - d. Must provide coverage for claims of third parties for damage caused by the malicious or willful act of a foster child. The coverage under this subdivision may not exceed five thousand dollars per claim, with an annual maximum of ten thousand dollars per year per claimant. The coverage under this subdivision must include a deductible not to exceed one hundred dollars per claim.
3. The department may provide for exclusions from liability coverage provided under this section."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1390: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1390 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "insurance"

Page 1, replace lines 6 through 16 with:

"Department to provide liability coverage.

1. The department shall provide liability coverage for the intentional and unintentional acts or omissions of foster children placed in the care of foster families. The department may provide this liability coverage through self-insurance.
2. The liability coverage under this section:
 - a. Must provide coverage for damage to the property of a foster family which is caused by the act of the family's foster child. This coverage must be for the lesser of the reasonable cost to repair or to replace the damaged property.
 - b. Is secondary to any other coverage the foster family may have for claimed losses.
 - c. May not exceed five thousand dollars per claim, with an annual maximum of ten thousand dollars per year per claimant. The coverage under this subsection must include a deductible not to exceed one hundred dollars per claim.
3. The department may provide for exclusions from liability coverage provided under this section."

Renumber accordingly

2007 SENATE HUMAN SERVICES

HB 1390

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1390

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-28-07

Recorder Job Number: 4080

Committee Clerk Signature *Mary R Monson*

Minutes:

Chairman Senator J. Lee opened the hearing on HB 1390 relating to liability coverage for damage caused by foster children.

Representative James Kerzman (District #31) introduced HB 1390. His testimony and a proposed amendment is attached (#1).

Senator J. Lee asked him to review the purpose of his amendment.

Rep. Kerzman said the purpose of the amendment is to expand it to more of the community.

The floor testimony in the House said that community was covered under the current engrossed bill, but there is a little bit of gray area (meter 3:10). This broadens the coverage.

Senator J. Lee said then it wouldn't just be damage to a foster family's property but to others as well.

Rep. Kerzman said that was right. He then addressed the fiscal note. They looked at the Dept. buying liability insurance but they could probably self insure.

Senator Dever asked if the self insurance would be through the insurance reserve fund.

Rep. Kerzman said it was brought up but they didn't want to go there. This would just be through the Dept.

Senator Dever asked if the child's parents continue to have liability for this.

Rep. Kerzman said if the parents have primary coverage they would be first. The Dept. is a secondary payer.

Senator Dever – It says secondary to any coverage the foster family has. What about the child's biological parents.

Rep. Kerzman said most of the time when they are removed from the parents; they become wards of the state. That is where the problem lies.

Senator Aaron Krauter (District #31) testified in support of HB 1390. We look to foster parents to provide a place for children and when things like this happen it creates a little rub. We need to make sure it works.

Senator Warner asked if it was his understanding that the Dept. would be allowed to accumulate this pool from biennium to biennium if it is not used.

Sen. Krauter deferred to the Dept.

Senator Dever referred to subsection C, lines 17-18. Is the deductible the responsibility of the foster family?

Sen. Krauter said his understanding was that it was whoever the claimant was.

Shari Doe (Director, Burleigh County Social Services) See attached testimony #2 in support of HB 1390.

Senator J. Lee asked if she would respond to the question about this covering damage to the property of the foster family.

Ms. Doe said she does support the amendments. They need those to be unintentional and intentional damage and foster families and non foster families.

Senator Erbele referred to her example of the fall of 2006 and asked how often this type of thing happens.

Ms. Doe said this is the first she has had in six years. She had other incidences that involved lesser amounts of damage, minor things.

Senator Dever asked if the vehicle owner's insurance covered it.

Ms. Doe said he only had liability insurance, no collision.

Don Snyder (Administrator, Foster Care Program, Children and Family Services Division DHS)

See attachment #3 in support of HB 1390.

Senator J. Lee asked why they would limit it to property damage caused by an intentional act and not include the property that might be owned by someone other than foster parents.

Mr. Snyder said he wasn't totally involved with that process so he wasn't sure what went into it.

Senator J. Lee asked if he had any thoughts to expand this to include these other areas and what the additional cost might be.

Mr. Snyder said they have had considerable discussion about what kind of impact there would be. He suggested Dawn Pearson might have some information.

Dawn Pearson (Children and Family Services) said that this hasn't been a well known program to the foster parents and she suspects that as they move forward with these amendments that it will become better known and more utilized. The feeling from the Dept. is that the \$20,000 that is currently budgeted for the cover is what they suspect the claims will be. That is only a guest.

Senator J. Lee asked if something was needed saying the Dept. is the payer of last resort so if there is other insurance that would pay first.

Ms. Pearson replied that was part of their current policy and that would be recommended for future policy, as well.

Senator J. Lee said the \$100 deductible is a small number.

Ms. Pearson said she personally felt it would be a benefit to the foster parent since insurance seems to be a stumbling block.

Senator J. Lee asked if they could leave payer of last resort in rule or if she wanted something in statute.

Ms. Pearson deferred to Mr. Snyder.

Mr. Snyder said if it is in rule it has force and effect of law and he was ok leaving it there.

Senator Heckaman said it was her understanding that the amendment took intentional and unintentional out. Should it be out or leave it in?

Ms. Pearson said her understanding is that this amendment will be further amended to say "the department shall provide liability coverage for acts or omissions of foster children". That would cover everything.

Senator Warner asked if there was a claw back provision that you can sit the kid down and say "you're going to pay at least part of the damage you've done."

Ms. Pearson said, yes, that is the first resort a lot of the custodians and counties would take – to get them to be partially responsible. There are circumstances where that isn't possible.

Senator Warner asked if the \$20,000 was just an appropriation and not a pool in the sense of an insurance pool which accumulates and generates its own income through interest.

Ms. Pearson said that was her understanding.

Senator Warner what would happen if they went considerably over that. Would they have the authority to expend those monies, whatever it cost in the parameters of the deductibles and maximum payments under current law?

Neither Ms. Pearson nor Mr. Snyder had an answer.

(Meter 24:00) There was discussion on the insurance reserve fund.

Senator Warner referred to part b on Mr. Snyder's testimony. He asked if the state was liable for damages caused by physical and sexual abuse caused by the foster child on a foster sibling.

Mr. Snyder said his understanding was that the state was only responsible for providing the defense cost for the foster parents.

Senator Warner asked "What if the foster family was the plaintiff?"

Mr. Snyder wasn't sure.

There was no opposing or neutral testimony.

The hearing on HB 1390 was closed.

Senator Erbele moved to accept the Kerzman amendment .0201.

The motion was seconded by Senator Heckaman.

Roll call vote 6-0-0. Amendment accepted.

Senator Heckaman moved a Do Pass on HB 1390 as amended and rerefer to appropriations.

The motion was seconded by Senator Pomeroy.

Roll call vote 6-0-0. Motion carried. Senator Dever is the carrier.

JK
2-28-07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1390

Page 1, line 7, remove "the intentional and unintentional"

Page 1, line 11, remove "the" and remove "of a foster family"

Page 1, line 12, replace "the family's" with "a"

Page 1, line 14, remove "the foster family may have for claimed"

Page 1, line 15, remove "losses"

Renumber accordingly

Date: 2-28-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1390

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendments 0201

Motion Made By S Erbele Seconded By S Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2-28-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1390

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 70630.0201 Title .0300

Action Taken Do Pass / amended / refer

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Dever

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

REPORT OF STANDING COMMITTEE

HB 1390, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1390 was placed on the Sixth order on the calendar.

Page 1, line 7, remove "the intentional and unintentional"

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Page 1, line 12, replace "the family's" with "a"

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Renumber accordingly