

2019 HOUSE HUMAN SERVICES

HB 1102

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1102
1/9/2019
30592

- Subcommittee
 Conference Committee

Committee Clerk: Elaine Stromme by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

relating to criminal history record checks on identified relatives, residential child care facilities, qualified residential treatment program, supervised independent living program, approved foster care facilities, moratorium, and criminal history records investigation; and to provide an effective date.

Minutes:

Testimony 1

Vice Chairman Rohr: Opened the hearing on HB #1102

Dean Sturn, Foster Care Administrator for the Department of Human Services, Services Children and Family Division: (Testimony #1) In support of HB#1102.

Explained all the changes that they propose. Supervised care for and up to the ages of 21. Authority to the tribes to license for care of children. A change of homes to foster from 4 to 6 children. Fingerprints would be taken of potential family and providers. Given the authority to conduct criminal history investigation.

Vice Chairman Rohr: Any questions for Mr. Sturn?

Representative Schneider: Is there some way to speed up process of fingerprinting and criminal background checks?

Dean Sturn: They have increased capacity, but they have found mistakes, or incomplete forms, or out of state agencies.

Vice Chairman Rohr: Who incurs the cost of those background checks?

Dean Sturn: The department covers the cost of the background checks in foster care.

Vice Chairman Rohr: Rep. Porter.

Representative Porter: How are we assured that this program will expand in the appropriate areas and see it shrink in the non appropriate areas?

Dean Sturn; By giving the department discretion to determine how many beds there are and where they are located.

Representative Porter: The words “needs assessment” should be left in the bill.

Dean Sturn: Will take it back and see if it needs to be amended.

Representative Porter: The department does not have the ability to pick winners and losers inside of this statute, it says that you pick the maximum number.

Vice Chairman Rohr: Any further questions for Mr. Sturn?

Representative Skroch: Do you still require those family members to have background checks even if they are not required to have licensure?

Dean Sturn: They are not required to have a background check. This gives the department the authority to say we want one.

Representative Skroch: If grandparents are raising the grandchildren, do they need background checks?

Dean Sturn: A child is not considered to be in foster care unless they are under the care custody and control of a public agency. Meaning social services, tribal social service entity or the division of juvenile services.

Representative Skroch: How is that different than what is described on page 6 line 3 and 4?

Dean Sturn: That is exactly the scenario that I’m describing. These are the people that do not have to have a license.

Representative Skroch: Are these people required to have a background check?

Dean Sturn: The question is if the child is in foster care.

Representative Skroch: Those grandparents are not required to have background checks.

Dean Sturn: That is correct.

Representative Skroch: Line 5 page 7 refers to a non relative adult.

Dean Sturn: This is when fingerprinting is required when it is a foster child and they are placed with an identified relative that has adults living in the home.

Representative Skroch: That could be a non related adult ?

Dean Sturn: That could be an uncle that lives in the home with the grandparents.

Vice Chairman Rohr: On page 4 Please explain Title 4 E funding?

Dean Sturn: The Title 4E funding from Social Security is for foster care, subsidized adoptions & preventative services.

Vice Chairman Rohr: Any further questions for Mr. Sturn?

Representative Damschen: Does this have to do with legal guardians?

Dean Sturn: I don't know the answer to that question. This Bill is related to foster care.

Representative Damschen: Even though this is in regard to foster homes.

Dean Sturn: Guardians in the system are required to have background checks.

Vice Chairman Rohr: Any more questions?

Representative Tveit: Do they have to have background checks? Is it a requirement or are they allowed to have background checks?

Dean Sturn: This is the actual person that wants a background check.

Representative Tveit: Not simply allowed, but required.

Dean Sturn: That is correct.

Representative Tveit: Are there any adult group homes in the state of North Dakota?

Dean Sturn: This bill is related to group homes that have placement of foster children.

Vice Chairman Rohr: Rep. Porter.

Representative Porter: With the expansion of the background checks, I am wondering why this bill does not have a fiscal note.

Dean Sturn: We have always kept the background checks within our budget.

Vice Chairman Rohr: Rep. Porter

Representative Porter: Should we have an explanation on the fiscal note?

Dean Sturn: When we put together our budget, this is included. There was no increase so there is no fiscal note attached.

Representative Porter: This bill is codifying an existing practice that was brought into question whether you could or could not have identified relatives to submit to a background check.

Dean Sturn: That is correct. Better to ask for forgiveness than permission.

Vice Chairman Rohr: Anymore questions for Mr. Sturn?

Vice Chairman Rohr: Anyone else here to testify in support for HB1102?
Oppose?

Vice Chairman Rohr: Close hearing on HB1102.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services
Fort Union Room, State Capitol

HB 1102
1/30/2019
31870

- Subcommittee
 Conference Committee

Committee Clerk Signature Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks on identified relatives, residential child care facilities, qualified residential treatment program, supervised independent living program, approved foster care facilities, moratorium, and criminal history records investigation; and to provide an effective date.

Minutes:

Attachment 1

Chairman Weisz: Opened the hearing on HB 1102

Rep. Skroch: I did have a question about this because it required the background checks. I checked with Dean Sturn because I was wondering who paid for those. He said the Department paid for those.

Rep. Porter: On the end of the sentence on line 21 we are removing the moratorium and going to a maximum qualified residential treatment program bed capacity. There still needs to be any assessment done rather than have the open ended. So I asked the Department to create the amendment so on page 6 line 21 after the word "children" insert "based upon a needs assessment conducted by the department". I make a motion to adopt the amendment to HB 1102. (See attachment 1).

Rep. Rohr: Seconded.

Chairman Weisz: Does everyone understand what the amendment does? Seeing no questions.

Voice Vote on proposed amendment. **Motion Carries** to amend HB 1102.

Chairman Weisz: Any further discussion?

Representative Devlin: In Dean Sturn, ND Foster Care administrator, testimony the proposed changes would allow home approval to North Dakota tribes to individually define “on or near” permitting the Tribe to license foster homes off the reservation?

Kelsey Bless, Permanency Administrator for Children and Family Services, North Dakota Department of Human Services: I work closely with Dean Sturn who testified on this bill. Currently Federal regulations allow for tribal jurisdiction to license on or near their tribal jurisdiction to whatever they define that to be. North Dakota has always followed the way it is written in 5011 today that the tribes would be able to license foster homes on the reservation and we didn’t have the or near regulation allowable in our funding source. Currently ND would pay a 50-50 on reimbursement to those family homes so if a tribe were to come to us and say to the Department of Human Services we want to license off the reservation which would qualify in the federal “near”, they could but they would only get half the reimbursement because our law right now doesn’t embrace the “near” definition. We want to allow for that, it is good for our partnership and good for the ability to work with our tribes. They would define what near means and the department would approve that as part of Title 4 E agreement with each tribe. All 4 tribes would have the ability to license on or near their tribal jurisdiction.

Chairman Weisz: There is absolutely no definition of near such as within 150 miles?

Kelsey Bless: The federal government allows for the tribe to define that based off of their ability to service the home. An example is the Three Affiliated Tribes has already asked for us to consider what that might mean for them. They have home offices in New Town and one in Bismarck, Fargo and Minot. They were talking about a draft of a proposal could be within so many mile radius of that office. So each of them would have a definition that would make sense for what they would best be able to service. When it comes to providing care to that home that they licensed.

Chairman Weisz: And your department is okay with this?

Kelsey Bless: The department would support them and help them define their definition if they would want us to.

Representative Devlin: They have an office in Fargo, would they have the skilled personnel to work with the foster care home? Would there be anything where it would say you have to have these certain skilled workers in your office in Fargo in order to do a foster care home in Fargo?

Kelsey Bless: Currently the department requires that the tribes follow the policy and procedures set forth in foster care licensing standards. We would say to the tribe in order for you to proceed with this location or jurisdiction geographically do you have the support staff to accommodate that? Let’s say the foster family in Fargo who maybe is a tribal member at Standing Rock, and they had licensed that Fargo home and they have put that in their definition. If an issue came up that that family needed additional support, they would call Standing Rock and their office would be able to accommodate that family foster home almost immediately for some the support. It depends on the situation. Some of our tribes work very closely with our county social service offices. We would encourage those ongoing

partnerships. I think the best example for a longer distance to give is one of our regulations says "If I am a foster family and I live in Bismarck and I move into a new home and my home needs to be viewed by the licensing agency within 7 days". So that same example Standing Rock family is licensed in Fargo that Fargo office can go view the home follow the check list and the policy of the home study to ensure that the new home meets the licensing requirement. That they would have someone in their office that is able to do that. They would be able to get there more timely than someone from Standing Rock being they are closer.

Representative Damschen: Does this involve the Spirit Lake Nation and their offices in South Dakota?

Kelsey Bless: We would only have it only within the North Dakota borders. The law would encourage that it would remain in the North Dakota borders. Our current Title 4E agreement with all four tribes is in relation to the North Dakota funds that are supporting that are within the boundaries of North Dakota.

Representative Rohr: I move a Do Pass as amended on HB 1102.

Representative Dobervich: Seconded.

Chairman Weisz: Any further discussion? Seeing none.

Roll call vote: Yes 9 No 4 Absent 1. Motion carries for a Do Pass as amended on HB 1102.

Representative Rohr: Will carry the bill.

Hearing closed.

DP 1/30/19

19.8082.01001
Title.02000

Adopted by the Human Services Committee

January 30, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1102

Page 6, line 21, after "children" insert "based upon a needs assessment conducted by the department"

Renumber accordingly

Date: 1-30-19
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1102**

House Human Services Committee

Subcommittee

Amendment LC# or Description: 19.8082.01001

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 Rep. Porter Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr - Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlind					
Kathy Skroch					

(13 present
1 absent)

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 1-30-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB/102**

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. Rohr Seconded By Rep. Dobervich

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr - Vice Chairman	X		Mary Schneider	X	
Dick Anderson					
Chuck Damschen	X				
Bill Devlin		X			
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit		X			
Greg Westlind		X			
Kathy Skroch		X			

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Rohr

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

13

REPORT OF STANDING COMMITTEE

HB 1102: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1102 was placed on the Sixth order on the calendar.

Page 6, line 21, after "children" insert "based upon a needs assessment conducted by the department"

Renumber accordingly

2019 SENATE HUMAN SERVICES

HB 1102

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1102
3/13/2019
Job #33624

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks on identified relatives, residential child care facilities, qualified residential treatment program, supervised independent living program, approved foster care facilities, moratorium, and criminal history records investigation; and to provide an effective date.

Minutes:

Attachment #1

Madam Chair Lee opens the hearing on HB 1102.

(01:22-08:23) Dean Sturn, Foster Care Administrator for the Department of Human Services. Testifying in support of HB 1102. Please see **Attachment #1** for written testimony.

Senator Hogan: I'm interested in determining the number of licensed qualified residential treatment program bed capacity for children and the needs assessment that you will be conducting?

Dean Sturn: This has also been in law to do this but what this really is, is a response to public law 115-123 the Family First legislation where kids do better in family placements. One of the things that they are saying is, the department wants to be able to have oversight on how many residential placements and do a needs assessment and there is verbiage in the testimony that talks about not only the need for the homes but where they are located and as most know; we have issues of placement within the state. We are always going to keep kids as close to their home community as possible.

Senator Hogan: Could you just briefly tell me what the timeline is for doing that needs assessment and what process will be used because that is a pretty big deal?

Dean Sturn: That will be ongoing, it is already happening right now for what has been repealed called Residential Child Care Facilities and they will change to Qualified Residential Treatment Programs so, that will be an ongoing need. It will really be based on the number of children in foster care, what the level of need of those children are, and whether we are meeting that need with the number of beds that are currently licensed to provide that service.

Senator Hogan: Is that parallel to the long term care beds process or the moratorium on that whole process because that is a pretty public and transparent process. Is this a public process? Is there a formal report every year on this?

Dean Stern: I do not know that answer. I do not believe it is a public process.

Madam Chair Lee: With the moratorium and long term care and basic care beds it's a fixed number and we set it but, it is based on comparable information is what you are talking about with foster care. Is there going to be an absolute number or is there a goal that you are shooting for? How does work and are you looking at having a finite number of beds?

Dean Sturn: I think there are a couple of different parts to that questions. I think that there isn't a finite number set. The definite movement is towards less residential beds even qualified treatment beds. As I referred to earlier, the ongoing data and the research that shows, they have to be removed from the family then put them into a family setting, not a residential or institutional congregate care type setting. There isn't a finite number but the mindset would be to continue to move that down and that is absolutely the federal mindset with public law 115-123. The second part of your question?

Madam Chair Lee: I wish I remembered it now. The finite number in whether or not it would be float kind of thing, which you said it's not. Since it is an ongoing thing that, that number or locations may adapt. For example, if ABC facility says they want to have another one in Bismarck and they say no we really need it in Bottineau, you may reject their site but accept the increase in numbers, something like that?

Dean Sturn: That is correct. The geographical location would certainly play into it and we tend to cluster in Bismarck, Fargo, Grand Forks, and Minot.

Madam Chair Lee: What will happen now with facilities like Dakota Boys and Girls Ranch and PATH? Are they adapting their programs to Families First?

Dean Stern: Yes, they are. In fact, with the residential child care facility and group home rule being repealed, we are in the process of writing rule to be licensed as a qualified residential treatment program. That increases the number of clinical staff, services, and training those staff have to have in order for a child to be placed there.

Senator Hogan: Do you anticipate any of those agencies not wanting to go to the higher level of care.

Dean Sturn: Yes, we do. We have already been informed by a number of them that they are not going to pursue the qualified residential treatment programming level of care. The amount of preparation the goes in according to federal law with some of them it would be impossible to do with the costs with the economy of scale. I can share with you that we currently have 150 beds licensed for residential child care facilities and we are anticipating that will go down to 133.

Madam Chair Lee: What will they do with those beds then?

Dean Sturn: I think we continue to work with the facilities that are not going to pursue the qualified residential treatment provider programming designation, of course it is not our role to develop business but we have talked to them about what needs do we need within this state. I know that some have talked about potentially doing the supervised and independent living programming to help the older foster kids who are aging out or who have aged out. I think some have talked about some of our smaller models that are just more residential housing type situations or even going down the road of a family foster provider having four to six beds just for foster care. There are all types of things that they could do but those seem to be the two big ones.

Madam Chair Lee: I would think they just want to have the reimbursement available.

Senator Hogan: Do we currently have adequate beds and resources to serve the children with the appropriate service at the level that they need?

Dean Sturn: I think we can always use more, I think within our state we have gotten a lot better at keeping kids in their home and if they need to be removed putting them in family foster homes and increasing the treatment level within those homes. We could always look for high level kids that need that clinical onsite

Madam Chair Lee: Further questions for Mr. Sturn? If not, thank you.

Madam Chair Lee calls for any further testimony in favor, opposition, or neutral. Hearing none, Madam Chair Lee closes the hearing on HB 1102.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1102
3/13/2019
Job #33628 (00:00-02:00)

Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks on identified relatives, residential child care facilities, qualified residential treatment program, supervised independent living program, approved foster care facilities, moratorium, and criminal history records investigation; and to provide an effective date.

Minutes:

No Attachments

Madam Chair Lee opens the discussion on HB 1102.

Senator Hogan: I move a **DO PASS** on HB 1102.
Seconded by Senator K. Roers

Madam Chair Lee: Any further discussion? I have been interested to see what the department is doing to respond to that Family First legislation because that federal law is a big deal and the whole country is going to have to make some changes and pretty quickly so I'm not surprised they are responding to it but it is a big transition and for the facilities also.

Senator Hogan: It seems like we have a lot more bill introduced by the department, technical amendments, and corrections than usual.

Madam Chair Lee: I'm okay with and congrats to Maggie Anderson for doing in it in Medicaid before she left but for the others as well. Chris Jones is really good at making sure that the spreadsheet is updated and so I'm very pleased to see that we are updating the language.

Senator Hogan: It's really delightful and needed.

Madam Chair Lee: Any further discussion on HB 1102? If not, please call the roll.

ROLL CALL VOTE TAKEN

6 YEA, 0 NAY, 0 ABSENT

MOTION CARRIES DO PASS.

Senator Anderson will carry HB 1102 to the floor.

Senate Human Services Committee

HB 1102

3/13/2019

Page 2

Madam Chair Lee and the committee end the discussion on HB 1102 and discuss HB 1285.

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate 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 Sen. Hogan Seconded By Sen. K. Roers

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee	X		Sen. Kathy Hogan	X	
Sen. Oley Larsen	X				
Sen. Howard C. Anderson	X				
Sen. David Clemens	X				
Sen. Kristin Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Anderson

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

REPORT OF STANDING COMMITTEE

HB 1102, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1102 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1102

#1
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1/9/2019
Page 1

Testimony
House Bill 1102– Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

January 9, 2019

Chairman Weisz, and members of the House Human Services Committee, I am Dean Sturn, Foster Care Administrator for the Department of Human Services (Department); Children and Family Services Division. I am here today in support of House Bill 1102, which was introduced at the request of the Department.

North Dakota Century Code sections 12-60-24, 25-03.2-03.1, 43-12.1-04, and 50-06-05.1, and chapter 50-11 address foster care facility levels of care licensure and criminal history record investigation requirements for facility providers and their staff. Many of the requested changes will also provide consistency across related chapters of law.

The proposed changes on page 1, lines 13 through 19, provide further clarification that identified relatives providing care to children in public custody are allowed to submit criminal background check information at the request of the public agency. This will allow the Department's Criminal Background Check Unit to complete the criminal records check process and will be consistent with section 50-11-01 of the North Dakota Century Code that already requires an approved relative to submit to a criminal history record investigation under section 50-11-06.8 of the North Dakota Century Code.

The proposed changes on page 2, lines 12 through 17 and 26 through 28, are required to meet compliance with federal legislation "Family First Prevention Services Act" (P.L. 115-123). This Act requires states to discontinue placements of foster children into group homes and residential child care facilities and replace those levels of care with higher treatment and clinical oversight levels of care. This

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requires licensing facilities as a "Qualified Residential Treatment Provider" effective October 1, 2019.

The proposed changes on page 3, lines 9 through 25 are also required to meet compliance with federal legislation found in P.L. 115-123. This allows states the opportunity to provide supervised independent living programs and housing to foster children who are aging out of foster care, or who choose to remain in the 18+ Continued Care program to receive foster care services up to age 21. These changes will replace transitional living criteria in chapter 50-06-05.1 with the federally recognized supervised independent living language effective October 1, 2019.

The proposed changes on page 3, lines 28 through 31 and page 4, lines 1 through 3 of section 50-11-00.1 of the North Dakota Century Code will meet the federal compliance 45 CFR 1355.20 definition of "foster family home." This gives Tribes authority to license or approve homes that are on or near Indian reservations. The authority to license or approve includes the authority to set Tribal licensing standards or follow existing state licensing standards. The proposed change will also allow for North Dakota Tribes to individually define "on or near" permitting the Tribe to license a family to provide foster care for children. The current licensing process will continue to be followed and the Department will approve the licensing studies completed by the Tribe.

The proposed changes on page 4, lines 16 through 27 and page 5, lines 4 through 25 are all related to changes in definitions to meet compliance with federal legislation created in P.L. 115-123. Specifically, the changes in verbiage help define supervised independent living programming, qualified residential treatment programming, and identified relatives. It is important to note that the definition of a "family foster home for children" has been changed from previously allowing no more than 4 foster children to be placed into the home to now allow no more than 6 foster children to be placed in a foster home. This change was made to be congruent with

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1/9/2019
page 3

P.L. 115-123 and to help increase the number of available beds for placement into family foster care. The amount of youth that a foster home is licensed for will still be made on a case by case basis with factors of physical space, make-up of the family, and training and ability of the provider being considered.

The proposed changes on page 5, lines 30 and 31 and on page 6, lines 1 through 11 provide clarity and consistency relating to Tribally approved foster homes and identified relatives who provide foster care placements.

The proposed changes on page 6, lines 14 through 21 give the Department the authority to determine the maximum number of licensed qualified residential treatment program beds in the state. This will allow the Department to monitor and regulate the number and location of licensed qualified residential treatment beds across the state.

The proposed changes on page 7, lines 1 through 13 further clarify the authority of the Department to secure fingerprints of potential foster care providers. This not only extends to identified relatives of the foster youth, but also to any adult living in the home of the identified relative where placement may take place. This change will make it consistent with the current requirements of section 50-11-01 of the North Dakota Century Code. Authority is also given to share the results of the background check with the agency providing oversight of the foster home.

The proposed changes on page 7, lines 19 and 20 clarify and expand the authority of law enforcement agencies to take fingerprints of potential foster care providers for the purposes of conducting criminal history record investigations.

The proposed creation of a new section to chapter 50-11 of the North Dakota Century Code as set forth in section 10 on page 8, lines 8 through 19 gives the Department the authority to conduct criminal history record investigations for identified relatives and any adult living in that home. This addition also provides

consistency to proposed changes in verbiage noted earlier in the bill concerning criminal history record investigations.

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

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1-30-19
PI

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1102

Page 6, line 21, after "children" insert "based upon a needs assessment conducted by
the department"

Re-number accordingly

HB 1102
3/13/19
#1 p.1

Testimony
Engrossed House Bill 1102– Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chair

March 13, 2019

Chair Lee, and members of the Senate Human Services Committee, I am Dean Sturn, Foster Care Administrator for the Department of Human Services (Department); Children and Family Services Division. I am here today in support of Engrossed House Bill 1102, which was introduced at the request of the Department.

North Dakota Century Code sections 12-60-24, 25-03.2-03.1, 43-12.1-04, and 50-06-05.1, and chapter 50-11 address foster care facility levels of care licensure and criminal history record investigation requirements for facility providers and their staff. Many of the requested changes will also provide consistency across related chapters of law.

The proposed changes on page 1, lines 13 through 19, provide further clarification that identified relatives providing care to children in public custody are allowed to submit criminal background check information at the request of the public agency. This will allow the Department's Criminal Background Check Unit to complete the criminal records check process and will be consistent with section 50-11-01 of the North Dakota Century Code that already requires an approved relative to submit to a criminal history record investigation under section 50-11-06.8 of the North Dakota Century Code.

The proposed changes on page 2, lines 12 through 17 and 26 through 28, are required to meet compliance with federal legislation "Family First Prevention Services Act" (P.L. 115-123). This Act requires states to discontinue placements of foster children into group homes and residential child care facilities and replace those levels of care with higher treatment and clinical oversight levels of care. This

requires licensing facilities as a "Qualified Residential Treatment Program" effective October 1, 2019.

The proposed changes on page 3, lines 9 through 25 are also required to meet compliance with federal legislation found in P.L. 115-123. This allows states the opportunity to provide supervised independent living programs and housing to foster children who are aging out of foster care, or who choose to remain in the 18+ Continued Care program to receive foster care services up to age 21. These changes will replace transitional living criteria in chapter 50-06-05.1 with the federally recognized supervised independent living language effective October 1, 2019.

The proposed changes on page 3, lines 28 through 31 and page 4, lines 1 through 3 of section 50-11-00.1 of the North Dakota Century Code will meet the federal compliance 45 CFR 1355.20 definition of "foster family home." This gives Tribes authority to license or approve homes that are on or near Indian reservations. The authority to license or approve includes the authority to set Tribal licensing standards or follow existing state licensing standards. The proposed change will also allow for North Dakota Tribes to individually define "on or near" permitting the Tribe to license a family to provide foster care for children. The current licensing process will continue to be followed and the Department will approve the licensing studies completed by the Tribe.

The proposed changes on page 4, lines 16 through 27 and page 5, lines 4 through 25 are all related to changes in definitions to meet compliance with federal legislation created in P.L. 115-123. Specifically, the changes in verbiage help define supervised independent living programming, qualified residential treatment programming, and identified relatives. It is important to note that the definition of a "family foster home for children" has been changed from previously allowing no more than 4 foster children to be placed into the home to now allow no more than 6 foster children to be placed in a foster home. This change was made to be congruent with

P.L. 115-123 and to help increase the number of available beds for placement into family foster care. The amount of youth that a foster home is licensed for will still be made on a case by case basis with factors of physical space, make-up of the family, and training and ability of the provider being considered.

The proposed changes on page 5, lines 30 and 31 and on page 6, lines 1 through 11 provide clarity and consistency relating to Tribally approved foster homes and identified relatives who provide foster care placements.

The proposed changes on page 6, lines 14 through 21 give the Department the authority to determine the maximum number of licensed qualified residential treatment program beds in the state based upon a needs assessment. This will allow the Department to monitor and regulate the number and location of licensed qualified residential treatment beds across the state.

The proposed changes on page 7, lines 1 through 13 further clarify the authority of the Department to secure fingerprints of potential foster care providers. This not only applies to identified relatives of the foster youth, but also to any adult living in the home of the identified relative where placement may take place. This change will make it consistent with the current requirements of section 50-11-01 of the North Dakota Century Code. Authority is also given to share the results of the background check with the agency providing oversight of the foster home.

The proposed changes on page 7, lines 19 and 20 clarify and expand the authority of law enforcement agencies to take fingerprints of potential foster care providers for the purposes of conducting criminal history record investigations.

The proposed creation of a new section to chapter 50-11 of the North Dakota Century Code as set forth in section 10 on page 8, lines 8 through 19 gives the Department the authority to conduct criminal history record investigations for identified relatives and any adult living in that home. This addition also provides

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consistency to proposed changes in verbiage noted earlier in the bill concerning criminal history record investigations.

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