

2019 SENATE HUMAN SERVICES COMMITTEE

SB 2294

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2294
2/4/2019
Job # 32066

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to fencing requirements for early childhood services providers.

Minutes:

Attachment #1

Madam Chair Lee: Opens the hearing on SB 2294.

Senator Shawn Veeda, District 6. Introduces SB 2294 and gives a brief description.

(04:50-09:07) Lynne Reiseanuer, Citizen. Testifying in support of SB 2294. Please see **Attachment #1** for testimony.

Senator O. Larsen: You're not aware that now in North Dakota people have to fence pools and stuff now? That's not legislation currently?

Lynne Reiseanuer: I am not aware of that.

Madam Chair Lee: I thought swimming pools were. If it's in an area where there is a childcare facility, then they need to be tuned into what those water hazards might be is what I hear you saying.

Lynne Reiseanuer: Correct.

(10:29-00:00) Amanda Carlson, Early Childhood Services Administrator with the Department of Human Services. Offering neutral testimony on SB 2294. Testimony is as follows.

Amanda Carlson: I did just want to offer for the committee's review that we do have in administrative rule regarding all licensed childcare providers a requirement that the provider ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance. Now we don't have anything in administrative rule specifically regarding pools but out early childhood policies require that all providers have fencing around the pool if there is one at

the provider location. So again, if this was in a neighbor's yard then that's where we would have a rub in terms of fencing being in place. I did just want to offer that we do have some citations in administrative rule regarding fencing. Self-declared providers we offer a certificate and in-home providers DHS does not have any jurisdiction over.

Senator O. Larsen: If I remember right with Allstate insurance when you buy a place and if you have a pool there's something with insurance that if you don't have a fence on your deck something happens. I built a deck and I'm getting hammered on not having a fence from the insurance company. I think you have to have a fence around your pool, for insurance reasons.

Amanda Carlson: There are insurance requirements as well as city codes that require fencing depending on the height.

Senator Hogan: Can you get us a copy of the administrative rules on fencing so we can look at it as it relates to this law?

Amanda Carlson: I will connect with Alex (Senate Human Services Intern), I have the citations already.

Madam Chair Lee: In terms of the self-declaration, if we were to add this to the self-declaration group do you have any ideas of where and how that would work in administrative code?

Amanda Carlson: I believe I would need to work with legal on that because we don't license self-declared providers we provide a certificate to them and we do that because they let us know they are providing the care. I think we would have to look at what our allowances are in century code and administrative rule to find out how we would go about enforcing that.

Senator Hogan: I want you to go meet with Jonathan Alm and see if we added this to the self-declaration group on how we would do that because, I think that might be different than the century code.

Amanda Carlson: I can definitely do that.

Madam Chair Lee: Closes the hearing on SB 2294

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2294
2/12/2019
Job # 32579 (08:00-11:00)

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to fencing requirements for early childhood services providers.

Minutes:

Attachment #1

(08:00) Madam Chair Lee moves on to discuss SB 2294

Jonathan Alm, Attorney with the Department of Human Services: The next bill I would like to discuss is SB 2294. Currently we have 16 pages of law and we have 151 pages total of administrative rules regarding early childhood services. What the proposed bill is taking up, the department “may” to the department “shall establish reasonable minimum” I think based on 151 pages and 16 pages of law, we probably far exceeded the minimum standards. In addition, the fencing requirements that were added, we have in our administrative rules about fencing requirements and so for that purpose too we don’t see that bill is necessary to be put into law. **(Please see Attachment #1 for administrative rules)**

Madam Chair Lee: Any further questions about this particular fencing requirement? As I recall, even a brief conversation that we had about it when the bills were presented, that the bill itself talked about what amounted to fencing the entire facility and we were talking about more restrictive, but it seems to me in the examples that were given that it talks about whether it’s a hazard or if they have natural boundaries and some of those other components that would come into the restricted area.

Jonathan Alm: I do believe in the past, that some providers do use city parks and other things as their outdoor space, so requiring city parks to be fenced would be a difficult task.

Senator Hogan: I think the last line of this particular section “outdoor play areas must be inspected daily for hazards and necessary maintenance”. The issue of fence doors closing which we talked about earlier and that is such a clear standard. I think that is a great example when you have a rule that is clearly not been followed, that ends up in licensing consequences. I think this standard is very well done in administrative rule.

Madam Chair Lee: Any further comments from the committee?

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**Senator K. Roers: I move a DO NOT PASS
Seconded by Senator O. Larsen**

ROLL CALL VOTE TAKEN

6 YEA, 0 NAY, 0 ABSENT

MOTION CARRIES DO NOT PASS

Senator K. Roers will carry SB 2294 to the floor.

Madam Chair Lee moves on to SB 2163. (11:00)

REPORT OF STANDING COMMITTEE

SB 2294: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2294

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#1 Pg. 1

January 18, 2019

I would like to first start out by introducing myself. My name is Lynne Reiseanuer, I am Gracelyn's mother. You may have heard of Gracelyn's story and if you have not, I would like to take a moment to share with everyone.

My daughter Gracelyn was five years old when she passed away on July 1, 2015 from injuries sustained while in the care of KidQuarters daycare in Velva, ND. June 8, 2015, I received a call from the daycare owner stating "they found Gracelyn unresponsive in the pool". I did not understand so I asked what do you mean, where are you? That is when the daycare owner explained they were at the Velva Public Pool. I hung up the phone because my mind was going a million miles a minute. I got into my car and I drove as fast as I could to the Velva public pool. Upon arriving, one of the first things I noticed was how packed the pool was, I rushed in to find my lifeless five-year-old daughter laying on the pool deck as first responders were trying to revive her. I remember dropping to my knees screaming, praying she would take a breath. They loaded her into the ambulance and I remember begging them to let me ride with. I was unable to ride with her in the ambulance. I arrived at Trinity Hospital in Minot, ND a few minutes before the ambulance and I remember running through the ER doors as they were transporting her inside. Once, she was in a room being looked after, I recall one of the volunteers from the Velva ambulance coming up to me, giving me a hug and telling me its going to be okay "we were able to revive her on the drive in." A part of me, breathed a sigh of relief, but was quickly brought back to reality when I was informed that she was not ok. Gracelyn and I were then transported by plane to Fargo, ND under the care of Sanford Children's hospital. For the next three weeks I laid next to my daughter who was now in a coma. I did not leave her side. I prayed all day long that God would grant her a miracle. I just wanted her to wake up. I wanted my daughter back. In the morning hours of July 1, 2015 my daughter took her last breath. I held her for 4 hours rocking her back and fourth because I could not comprehend what just happened. Gracelyn was my only child and I could not leave her side. We have been a team since the day she was born.

Following her death, I spent two years in and out of court rooms. I appreciate the opportunity to share our story in hopes that laws will be changed in order to protect any future children and families from having to endure what I have. As a grieving mother being dragged through our court system is something, I do not wish on anyone. I do not wish, even on my worst enemy to ever lose a child. I will be honest; most court days are a blur, justice was not served criminally or civilly. I understand that no amount of justice will ever bring my daughter back, however I should have never lost my daughter or even been in those courtrooms. Her death was 100% preventable.

I would like to begin by addressing the proposed bills SB2163, SB2287, and SB2294.

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Pre-school graduation. She was 1 month away from starting Kindergarten.

SB2294-Inspection by a governmental unit

I am proposing fencing requirements for the premises of an early childhood program, self-declaration, and in-home provider. If an early childhood program, self-declaration or in-home provider have or live near open bodied water (i.e., lake, pond, slough, pool, etc.) that fencing requirements need to be put in place to ensure the safety of the children in their care.

I would like to share a story with you that encouraged me to bring fourth this fencing requirement. Gracelyn had been in the hospital for two and half-weeks and at 4am I was awakened by the nursing staff that they had a med flight arriving with a little five-year-old boy and they needed a room for him. At the time they were allowing my family and I to use the room next door to Gracelyn's to accommodate all of my family members that wanted to be with her. This little boy was admitted and due to confidentiality, I was not aware of what happened. Fast forward, I am now home and it has been 2 weeks since my daughter passed and I receive a call from one of the nurses from Sanford Children's hospital. They stated I want to share something with you, because the staff here at the hospital feels like you need to know and we want you to know how Gracelyn and you have made a big impact on our lives and we can't stop thinking about you. She then explained that Gracelyn surviving for as long as she did baffled them, but they now feel like they know why. That little five-year-old boy, was also admitted due to a near-drowning and my daughter and him passed away at exactly the same time. Why this may seem strange, is because they had very similar stories, they were of the same age, they were both blonde and blue eyed and they sustained the same injuries. So, the nurse went on to say that the staff feels like Gracelyn waited for him to bring him home with her. He passed away within 72 hours of arriving at the hospital, that is the same time frame Gracelyn was given, but she kept surprising us. Now, this little boy was not at a daycare, but at a home where he lived next to a pond. He had woken up in the early morning hours and left his home alone and he was later discovered in the pond.

Kids will wander and having a fencing requirement in place helps ensure their safety.

In conclusion, as a state we need to make changes to ensure the safety of our most valuable assets, our children. The state of ND failed Grace, it failed me and it will continue to fail if laws are not changed. A child in today's world should not die while in the care of a licensed daycare. I support each of the bills presented and it is one step closer to ensure the safety our children and daycare facilities in North Dakota.

I want to thank each of you for giving me the time to share my story and I greatly appreciate your time to review the proposed bills. I would like to make a difference to ensure this never happens again and I would really appreciate your support. My daughter's death will not be in vain, if these bills can pass and they can save one child, one family from going down the road I now lead. It will be worth it.

Thank you for your time.

Gracelyn's Mom.

DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE RULES PROVISIONS

Senate Bill No. 2163

Ensure that liability insurance is carried to insure against bodily injury and property damage for the child care center

Ensure that liability insurance against bodily injury and property damage for the preschool is carried

Shall ensure that the school-age child care program carries liability insurance against bodily injury and property damage

Senate Bill No. 2287

"Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.

Aquatic activities:

- a. The provider shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
- b. The provider may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.

Senate Bill No. 2294

Minimum Standards:

1. 16 pages of law and
2. 151 pages of administrative code.

Fencing for licensed providers:

The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.