

2023 SENATE HUMAN SERVICES

SB 2103

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2103
1/4/2023

Relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.

11:00 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston** are present. **Senator Hogan** was absent.

Discussion Topics:

- Prenatal care
- Toxicology testing

11:01 AM **Cory Pedersen, Director of the Children and Family Services Department of Health and Human Services**, introduced SB 2103 testimony in favor #12303

11:16 AM **Carl Young, Executive Director of Fetal Abuse Spectrum Disabilities (FASD)**, provided additional information testimony neutral verbal

11:24 AM **Joe Kolosky, Director School Approval and Opportunity**, testimony in favor verbal

11:32 AM **Carl Young** provided additional information #12351

11:38 AM **Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2103
1/9/2023

Relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.

2:53 PM Madam Chair Lee called the committee work meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston** were present. **Senator Hogan** was absent.

Discussion Topics:

- Child and abuse index
- Control substance

2:54 PM Jessica Thomasson Executive Director, Human Services Division ND Department of Health and Human Services, testified. No written testimony.

3:05 PM Chair Lee closed the committee work meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2103
1/16/2023

Relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.
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3:05 PM **Madam Chair Lee** called the committee work meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** were present.

3:06 PM **Jonathan Alm, Attorney, North Dakota Department of Health and Human Services**, submitted an amendment. #13659

Senator Cleary moved **Amendment** presented by Jonathon Alm. (LC 23.8051.01001) **Senator Weston** seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

(hold vote for *K. Roers)

***Senator K. Roers** was absent; the vote was held open. **Senator K. Roers** voted yes on SB 2103 on the morning of January 17, 2023 at 9:00 AM

Motion passed 6-0-0.

Senator Cleary moved **Do PASS AS AMENDED**. **Senator Hogan** seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0

(hold vote open for *Senator K. Roers)

***Senator K. Roers** was absent; the vote was held open. Senator K. Roers voted yes on SB 2103 on the morning of January 17, 2023 at 9:00 a.m.

Senator Cleary will carry SB 2103.

3:09 p.m. **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

January 16, 2023

DR
1 of 2
1/16/2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2103

Page 2, after line 3, insert:

"3. "Alcohol misuse" means a pattern of drinking that results in harm to one's health, interpersonal relationships, or ability to work."

Page 2, line 4, remove the overstrike over "~~4.~~"

Page 2, line 4, remove "3."

Page 2, line 9, remove the overstrike over "~~5.~~"

Page 2, line 9, remove "4."

Page 2, line 11, remove the overstrike over "~~6.~~"

Page 2, line 11, remove "5."

Page 2, line 14, replace "6." with "7."

Page 2, line 27, overstrike "7." and insert immediately thereafter "8."

Page 3, line 13, overstrike "8." and insert immediately thereafter "9."

Page 3, line 17, overstrike "9." and insert immediately thereafter "10."

Page 3, line 25, overstrike "10." and insert immediately thereafter "11."

Page 3, line 27, overstrike "11." and insert immediately thereafter "12."

Page 4, line 1, overstrike "12." and insert immediately thereafter "13."

Page 4, line 6, overstrike "13." and insert immediately thereafter "14."

Page 4, line 7, overstrike "14." and insert immediately thereafter "15."

Page 4, line 11, overstrike "15." and insert immediately thereafter "16."

Page 4, line 14, overstrike "16." and insert immediately thereafter "17."

Page 4, line 17, overstrike "17." and insert immediately thereafter "18."

Page 4, line 24, overstrike "18." and insert immediately thereafter "19."

Page 4, line 26, overstrike "19." and insert immediately thereafter "20."

Page 5, line 10, overstrike "chronic or severe use of"

Page 5, line 10, after "alcohol" insert "misuse"

Page 5, line 18, overstrike "20." and insert immediately thereafter "21."

Page 5, line 24, overstrike "21." and insert immediately thereafter "22."

Page 5, line 29, overstrike "22." and insert immediately thereafter "23."

Page 6, line 11, overstrike "23." and insert immediately thereafter "24."

Page 6, line 15, overstrike "24." and insert immediately thereafter "25."

Page 6, line 19, replace "25." with "26."

Page 6, line 21, replace "26." with "27."

Page 9, line 5, remove "severe or chronic use of"

Page 9, line 6, after "alcohol" insert "misuse"

Page 9, line 14, remove "severe"

Page 9, line 15, remove "or chronic use of"

Page 9, line 15, after "alcohol" insert "misuse"

Page 9, line 18, remove "severe or chronic use of"

Page 9, line 18, after "alcohol" insert "misuse"

Page 9, line 25, remove "severe or chronic use of"

Page 9, line 25, after "alcohol" insert "misuse"

Page 10, line 6, remove "**severe or chronic use of**"

Page 10, line 6, after "**abuse**" insert "**misuse**"

Page 10, line 10, remove "severe or chronic use of"

Page 10, line 10, after "alcohol" insert "misuse"

Page 10, line 19, remove "severe or chronic use of"

Page 10, line 19, after "alcohol" insert "misuse"

Page 10, line 22, remove "severe or chronic use of"

Page 10, line 22, after "alcohol" insert "misuse"

Page 10, line 24, remove "severe or chronic use of"

Page 10, line 25, after "alcohol" insert "misuse"

Page 10, line 27, remove "severe or chronic use of"

Page 10, line 28, after "alcohol" insert "misuse"

Page 11, line 5, remove "severe or chronic use"

Page 11, line 6, remove "of"

Page 11, line 6, after "alcohol" insert "misuse"

Page 11, line 8, remove "severe or chronic use of"

Page 11, line 8, after "alcohol" insert "misuse"

Renumber accordingly

DR
ZOFZ
1/16/2023

REPORT OF STANDING COMMITTEE

SB 2103: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2103 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, after line 3, insert:

"3. "Alcohol misuse" means a pattern of drinking that results in harm to one's health, interpersonal relationships, or ability to work."

Page 2, line 4, remove the overstrike over "4:"

Page 2, line 4, remove "3."

Page 2, line 9, remove the overstrike over "5:"

Page 2, line 9, remove "4."

Page 2, line 11, remove the overstrike over "6:"

Page 2, line 11, remove "5."

Page 2, line 14, replace "6." with "7."

Page 2, line 27, overstrike "7." and insert immediately thereafter "8."

Page 3, line 13, overstrike "8." and insert immediately thereafter "9."

Page 3, line 17, overstrike "9." and insert immediately thereafter "10."

Page 3, line 25, overstrike "10." and insert immediately thereafter "11."

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Page 4, line 7, overstrike "14." and insert immediately thereafter "15."

Page 4, line 11, overstrike "15." and insert immediately thereafter "16."

Page 4, line 14, overstrike "16." and insert immediately thereafter "17."

Page 4, line 17, overstrike "17." and insert immediately thereafter "18."

Page 4, line 24, overstrike "18." and insert immediately thereafter "19."

Page 4, line 26, overstrike "19." and insert immediately thereafter "20."

Page 5, line 10, overstrike "chronic or severe use of"

Page 5, line 10, after "alcohol" insert "misuse"

Page 5, line 18, overstrike "20." and insert immediately thereafter "21."

Page 5, line 24, overstrike "21." and insert immediately thereafter "22."

Page 5, line 29, overstrike "22." and insert immediately thereafter "23."

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Page 6, line 15, overstrike "24." and insert immediately thereafter "25."

Page 6, line 19, replace "25." with "26."

Page 6, line 21, replace "26." with "27."

Page 9, line 5, remove "severe or chronic use of"

Page 9, line 6, after "alcohol" insert "misuse"

Page 9, line 14, remove "severe"

Page 9, line 15, remove "or chronic use of"

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Page 9, line 18, after "alcohol" insert "misuse"

Page 9, line 25, remove "severe or chronic use of"

Page 9, line 25, after "alcohol" insert "misuse"

Page 10, line 6, remove "**severe or chronic use of**"

Page 10, line 6, after "**abuse**" insert "misuse"

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Page 10, line 27, remove "severe or chronic use of"

Page 10, line 28, after "alcohol" insert "misuse"

Page 11, line 5, remove "severe or chronic use"

Page 11, line 6, remove "of"

Page 11, line 6, after "alcohol" insert "misuse"

Page 11, line 8, remove "severe or chronic use of"

Page 11, line 8, after "alcohol" insert "misuse"

Renumber accordingly

2023 HOUSE HUMAN SERVICES

SB 2103

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 2103
3/6/2023

Relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.
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Chairman Weisz called the meeting to order at 2:36 PM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, and Gretchen Dobervich. Vice Chairman Matthew Ruby and Rep. Jayme Davis not present.

Discussion Topics:

- Definition of juvenile
- Exposure to alcohol

Cory Pederson, Director of the Children and Family Services Section with the Department of Health and Human Services, supportive testimony (#22136).

Dennis Meier, Director of the Three Rivers Human Service Zones, supportive testimony (#22050).

Carl Young, Executive Director of Fetal Alcohol Spectrum Disorders – North Dakota, supportive testimony (#25612).

Chairman Weisz adjourned the meeting at 2:55 PM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2103
3/6/2023

Relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.

Chairman Weisz called the meeting to order at 4:25 PM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, and Gretchen Dobervich present. Vice Chairman Matthew Ruby and Rep. Jayme Davis not present.

Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on SB 2103.

Rep. Dobervich moved a do pass on SB 2103.

Seconded by Rep. Fegley.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	AB
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	AB
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 12-0-2.

Carried by Rep. Frelich.

Chairman Weisz adjourned the meeting at 4:30 PM.

Phillip Jacobs, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2103, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2103 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2103

Testimony
Senate Bill No. 2103
Senate Human Services Committee
Senator Judy Lee, Chairman
January 4, 2023

Chairman Lee, and members of the Senate Human Services Committee, I am Cory Pedersen, Director of the Children and Family Services Section with the Department of Health and Human Services (Department). I appear before you to support Senate Bill 2103, which was introduced at the request of the Department.

There are several updates necessary for clarification in this bill. Throughout the bill, the provisions which reference a "newborn", which is used to define a neonate, a child younger than 28 days, are amended to reference an "infant" which is a child up to 12 months of age. Also, language has been added to clarify chronic or severe use of alcohol for toxicology purposes, as well as for reporting purposes. Currently, North Dakota Century Code addresses the possible use of a controlled substance, and this will allow for testing to be completed when there is severe or chronic use of alcohol as well.

Section 1. The proposed change on page 1, lines 18 through 21, removes "abuse of alcohol", "alcohol abuse", or "abused alcohol" from the definitions section.

The proposed change on page 2, lines 2 and 3 removes "by any individual, including a juvenile" from the definition of an abused child. As per section 50-25.1-05 of the North Dakota Century Code, a juvenile is not considered someone who is "responsible for a child's welfare or who has responsibility for the care or supervision of a child, and the involvement of a juvenile in the abuse of another juvenile is addressed in

section 50-25.1-05.3 of the North Dakota Century Code regarding disposition of reports implicating a person not responsible for a child's health or welfare.

The proposed change on page 2, lines 5, 7, and 8 replaces "newborns" with "infant" from the definition of an "alternative response assessment". "Infants" is later defined and this change will allow for an alternative response assessment up to 12 months of age, rather than 28 days of age.

The proposed change on page 2, lines 11 through 13, creates a definition of "child abuse information index" which allows for a "categorized registry of subjects of reports confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect".

The proposed change on page 6, lines 11 through 13, replaces "newborn" with "infant". Prenatal exposure to controlled substance is used to refer to the fetal exposure to drug and alcohol use which can significantly increase the risk for developmental and neurological disabilities in a child.

Currently section 50-25.1-02 of the North Dakota Century Code defines a substance exposed newborn as an infant younger than twenty-eight days of age at the time of the initial report. This change in language will reflect the federal definition of substance exposed infants. The definition also removes the word "abuse" and replaces it with "use" to align to language utilized in current practice and further enable the treatment needs of families with substance use to be addressed.

Subsection 24, page 6, line 15 through 18, is added to create a definition of "substance use disorder", based on language in the Diagnostic and Statistical Manual of Mental Disorders published by the

American psychiatric association. This would allow for a response to pregnant women related both to the use of alcohol and of controlled substances.

Section 2. The proposed change amends section 50-25.1-05 of the North Dakota Century Code by adding a reference to “title 34, Code of Federal Regulations, part 99” and to “a public or private school” for the purpose of including schools in the list of facilities that are required to disclose information to “the Department, or the authorized agent” to enable assessments of child abuse or neglect if permitted by federal law.

Section 3. The proposed change amends section 50-25.1-05.2 of the North Dakota Century Code, which defines the conditions upon which information is entered in the child abuse information index. Subsection 2 is amended to clarify that information will be entered into the index “after the time to appeal the confirmed or confirmed with unknown subject decision has expired”. Subsection 3 is created to clarify that “educational neglect” will not be a basis for filing a report of a “neglected child” for the purpose of the child abuse information index.

Section 4. The proposed change amends section 50-25.1-05.5 of the North Dakota Century Code to define the length of time a report shall remain on the child abuse information index and provides clarification on the index retention schedule and expungement procedures from those confirmed subjects of child abuse, neglect, or death resulting from abuse or neglect. The current language does not reference a timeframe or retention or expungement procedure.

Section 5. The proposed change amends section 50-25.1-16 of the North Dakota Century Code. Subsection 3 removes language to better align to child protective services practice and replaces the word “may” with “must” when addressing the initiation of an assessment to address

the use of a controlled substance by a pregnant woman. This would include a referral for assessment when the "presence of a substance use disorder" is noted, and the "expectation to follow any treatment recommendations". The word "or" is removed and replaced with "and" to add the expectation of follow-through for a referral for prenatal care.

Subsection 4 was amended to include "continues to use controlled substances for a nonmedical purpose" as a trigger for reporting to occur.

Section 6. The proposed change amends section 50-25.1-17 of the North Dakota Century Code to add reference to "or severe or chronic use of alcohol" to the list of reasons that toxicology testing may occur after delivery where obstetrical complications have occurred. Current language only addresses the use of controlled substances, which does not include alcohol.

Section 7. The proposed change amends section 50-25.1-18 of the North Dakota Century Code to replace "alcohol abuse" with "severe or chronic use of alcohol" to better address prenatal exposure to severe or chronic use of alcohol for reporting purposes and to provide consistency with the Diagnostic and Statistical Manual of Mental Disorders.

By including alcohol in toxicology testing requirements, providing clarification on the chronic or severe use of alcohol during pregnancy and expanding the defined age for substance exposure from "newborn" to "infant" will allow for the identification and provision of services as required under the comprehensive addiction and recovery act's amendment of the Child Abuse Prevention Treatment Act (CAPTA) which requires that states have plans of safe care for substance exposed infants.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

Child Abuse Information Index



The **Child Abuse Information Index** is a list of persons determined to have abused or neglected a child by a child protection services (CPS) assessment determination and was established in accordance with NDCC 50-25.1-05.5. This statute indicates: *“The division of children and family services or other division as determined appropriate by the department shall maintain a child abuse information index of all reports confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect which are filed pursuant to section 50-25.1-05.2.”*

CPS Policy defines the time period a subject’sⁱ name is maintained on the index. *These names will remain on the Index for ten years from the date of the decision.”*¹

Purpose of the Child Abuse and Information Index:

States developed “central registries” to assist child welfare agencies in the investigation, treatment, and prevention of child abuse cases; in 1991, the Index became a tool for screening employees and volunteers; the use of the Index for background check purposes expanded in 2006, with the passage of the Adam Walsh Act. Currently, the Index is used as statutorily directed by the background check unit regarding prospective foster and adoptive parents, guardianship, staff members or volunteers of early childhood programs, those licensed or employed by DHHS, and many other public or private partner agencies that have frequent contact with children.

Confidential: The Child Abuse Information Index is confidential, in accordance with NDCC 50-25.1-11, it is not public record and cannot be accessed through a public website. ND state form [433 Child Abuse and Neglect Inquiry](#) is utilized for authorizing consent for background checks of the Child Abuse Information Index.

12,510 names appear on the Indexⁱⁱ, these are not unique, rather each entry is determined by each confirmed assessment. A subject’s name is listed on the Index for each confirmed assessment determination.



62% Female



38% Male



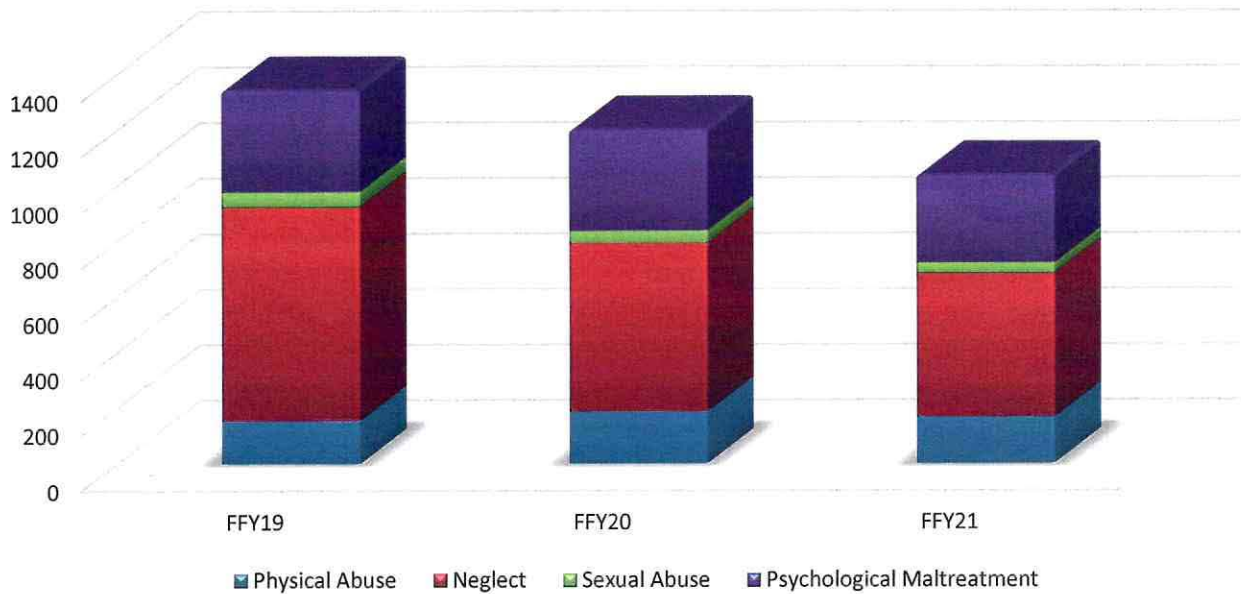
Average Age: 27-32 years old



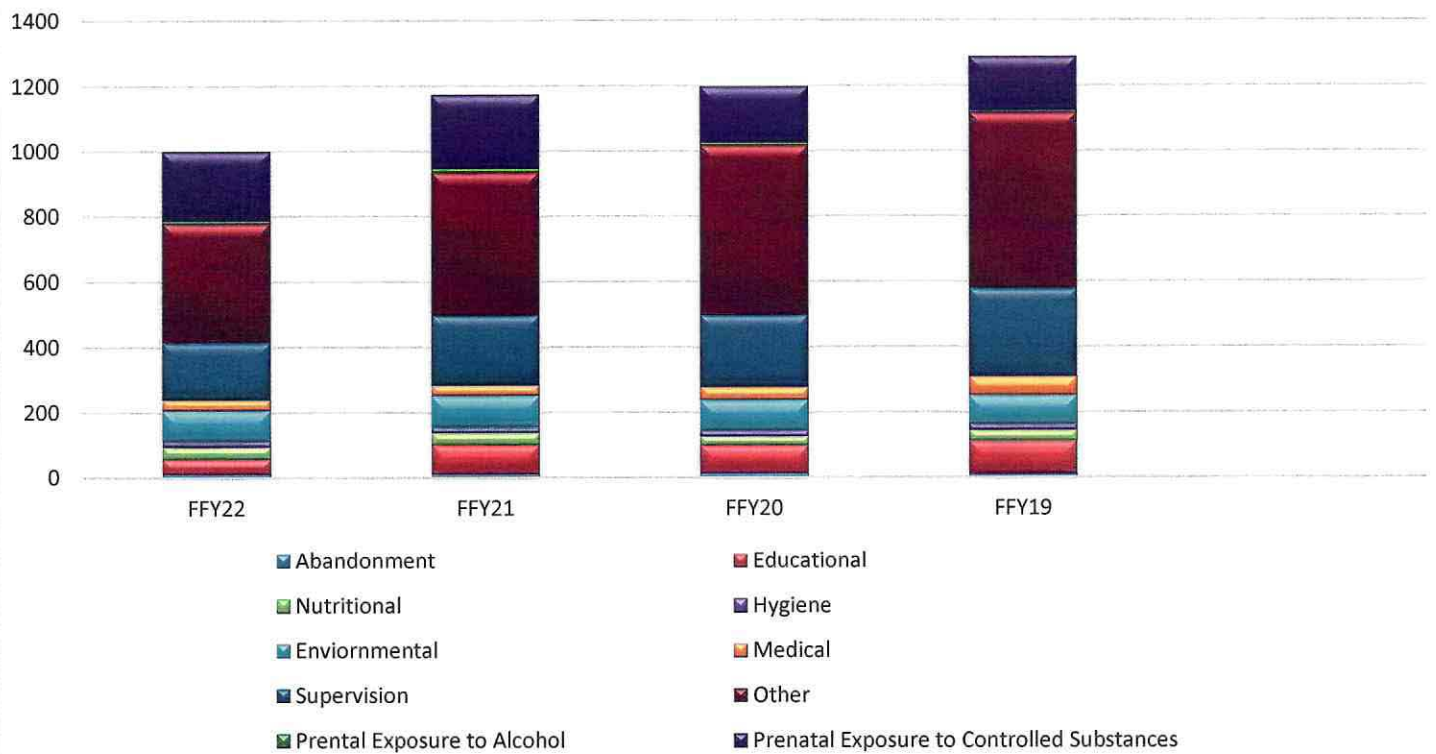
85% Parent of the victim child(ren)

¹ Nationally the retention of CPS Index entries varies. Arizona maintains substantiated reports for a maximum of 25 years after the date of the report; California and Pennsylvania perpetrators remain on the registry for life. Other states maintain names for a shorter amount of time, like Kentucky which requires a name to remain on the registry for at least 7 years. There are also a few states that determine the length of time a person will be placed on the index by the severity of the child maltreatment committed. Virginia has implemented a tiered system; they are classified in three levels pertaining to the severity of abuse or neglect. Each of these levels has a different retention period Level 1 is retained for 18 years (except sexual abuse which is 25 years); Level 2 for 7 years; Level 3 for 3 years. [Review and Expunction of Central Registries and Reporting Records \(childwelfare.gov\)](#)

Unique Subject Index Entries by Maltreatment Type FFY2019-2021



Neglect Index Entries: Closer Look



ⁱ "Subject" means a person responsible for the child's welfare as defined by North Dakota Century Code section 50-25.1-02

ⁱⁱ As of 12/30/22

PROPOSED AMENDMENTS TO SENATE BILL NO. 2103

Page 2, after line 3 insert:

“3. “Alcohol misuse” means a pattern of drinking that results in harm to one’s health, interpersonal relationships, or ability to work.”

Page 2, line 4, remove the overstrike over “4.”

Page 2, line 4, remove “3.”

Page 2, line 9, remove the overstrike over “5.”

Page 2, line 9, remove “4.”

Page 2, line 11, remove the overstrike over “6.”

Page 2, line 11, remove “5.”

Page 2, line 14, replace “6.” with 7.”

Page 2, line 27, overstrike “7.” and insert immediately thereafter “8.”

Page 3, line 13, overstrike “8.” and insert immediately thereafter “9.”

Page 3, line 17, overstrike “9.” and insert immediately thereafter “10.”

Page 3, line 25, overstrike “10.” and insert immediately thereafter “11.”

Page 3, line 27, overstrike “11.” and insert immediately thereafter “12.”

Page 4, line 1, overstrike “12.” and insert immediately thereafter “13.”

Page 4, line 6, overstrike “13.” and insert immediately thereafter “14.”

Page 4, line 7, overstrike “14.” and insert immediately thereafter “15.”

Page 4, line 11, overstrike “15.” and insert immediately thereafter “16.”

Page 4, line 14, overstrike “16.” and insert immediately thereafter “17.”

Page 4, line 17, overstrike “17.” and insert immediately thereafter “18.”

Page 4, line 24, overstrike “18.” and insert immediately thereafter “19.”

Page 4, line 26, overstrike “19.” and insert immediately thereafter “20.”

Page 5, line 10, overstrike “chronic or severe use of”

Page 5, line 10, after “alcohol” insert “misuse”

Page 5, line 18, overstrike “20.” and insert immediately thereafter “21.”

Page 5, line 24, overstrike “21.” and insert immediately thereafter “22.”

Page 5, line 29, overstrike “22.” and insert immediately thereafter “23.”

Page 6, line 11, overstrike “23.” and insert immediately thereafter “24.”

Page 6, line 15, overstrike "24." and insert immediately thereafter "25."

Page 6, line 19, replace "25." with "26."

Page 6, line 21, replace "26." with "27."

Page 9, line 5, remove "severe or chronic use of"

Page 9, line 6, after "alcohol" insert "misuse"

Page 9, line 14, remove "severe"

Page 9, line 15, remove "or chronic use of"

Page 9, line 15, after "alcohol" insert "misuse"

Page 9, line 18, remove "severe or chronic use of"

Page 9, line 18, after "alcohol" insert "misuse"

Page 9, line 25, remove "severe or chronic use of"

Page 9, line 25, after "alcohol" insert "misuse"

Page 10, line 6, remove "**severe or chronic use of**"

Page 10, line 6, after "**abuse**" insert "**misuse**"

Page 10, line 10, remove "severe or chronic use of"

Page 10, line 10, after "alcohol" insert "misuse"

Page 10, line 19, remove "severe or chronic use of"

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Page 10, line 28, after "alcohol" insert "misuse"

Page 11, line 5, remove "severe or chronic use"

Page 11, line 6, remove "of"

Page 11, line 6, after "alcohol" insert "misuse"

Page 11, line 8, remove "severe or chronic use of"

Page 11, line 8, after "alcohol" insert "misuse"

Renumber accordingly

Testimony Prepared for the
House Human Services Committee

March 6, 2023

By: Dennis Meier Three Rivers Human Service Zone Director

RE: SB 2103: Relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.

Chairman Weisz, and Members of the Committee. My name is Dennis Meier, Director of Three Rivers Human Service Zone, and I am here today to provide testimony in support of SB 2103.

Human Service Zones are charged with receiving and assessing reports of child abuse and neglect, to determine whether or not the allegations result in a Confirmed finding. Subsequently recommendations regarding the type and level of intervention are provided to mitigate harm to the child victim(s) resulting from those assessments. When there is a Confirmed finding, indicating abuse or neglect has occurred, current law dictates the Subject's name appear on the Child Abuse Information Index for 10 years. Many jobs require a background check upon hiring new employees, which can include federal, state and local criminal background checks, as well as inquiry with the Child Abuse Information Index. SB 2103 allows for a "graduated" timeframe rather than the standard 10 years, allowing for up to 25 years, to commensurate with the severity of the abuse or neglect. For example, if the abuse or neglect resulted in the death of a child, the timeframe for the Subject to be listed on the Child Abuse Index, could (and arguable should) be longer than 10 years. Conversely a Subject who had a confirmed finding on a less egregious allegation but went on to successfully address the safety issues and complete their case plan, could have their name take off the Index before the

current 10 years. This directly impacts citizens' abilities to gain employment in many fields, and the graduated timeframes proposed by this bill recognize and compensate for severity as well as for success.

A second recommendation related to the Child Abuse Information Index in this bill relates to Subjects (parents/caregivers) who have a Confirmed finding solely based on the definition of Educational Neglect. It is recognized that frequently educational neglect concerns are indicative of other underlying factors in a family. However in those instances where no other identified safety concerns are present, the Subject's name would not be placed on the Child Abuse Index. Again, because of the potential impact on employment, combined with the absence of danger to the child, this change is supported.

Another important aspect of SB 2103 relates to how Human Services Zones conduct assessments and provide services to families of a substance exposed infant where prenatal exposure to substances has occurred. Many of the changes are based on current definitions and recommendations of the Center for Disease Control, and align North Dakota's policies and practices accordingly. The definition change from "substance exposed newborn" to "substance exposed infant", expands Human Service Zones' ability to engage in Alternative Response efforts from the current first 28 days of an infant's life to the first year of an infant's life . This is a positive change which allows for parents/caregivers to engage in substance use assessments and services to address those concerns with the support of the Zone, service providers, and extended family/friends to ensure safe and sober caregivers for infants. Subjects/caregivers who adhere to a plan of safe care and complete recommendations through the Alternative Response process, avoid standard child protection assessment findings, as well as avoid being placed on the Child Abuse Information Index.

These proposed changes will positively impact those Subjects whose future employment opportunities are limited due to mistakes in their past, while still ensuring child safety. Thank you for considering my testimony relating to this bill. I stand for any questions the committee may have.

Testimony
Engrossed Senate Bill No. 2103
House Human Services Committee
Representative Robin Weisz, Chairman
March 6th, 2023

Chairman Weisz, and members of the House Human Services Committee, I am Cory Pedersen, Director of the Children and Family Services Section with the Department of Health and Human Services (Department). I appear before you to support Engrossed Senate Bill 2103, which was introduced at the request of the Department.

There are several updates necessary for clarification in this bill. Throughout the bill, the provisions which reference a "newborn", which is used to define a neonate, a child younger than 28 days, are amended to reference an "infant" which is a child up to 12 months of age. Also, language has been added to alcohol misuse for toxicology purposes, as well as for reporting purposes. Currently, North Dakota Century Code addresses the possible use of a controlled substance, and this will allow for testing to be completed when there is alcohol misuse as well.

Section 1. The proposed change on page 1, lines 18 through 21, removes "abuse of alcohol", "alcohol abuse", or "abused alcohol" from the definitions section.

The proposed change on page 2, lines 2 and 3 removes "by any individual, including a juvenile" from the definition of an abused child. As per section 50-25.1-05 of the North Dakota Century Code, a juvenile is not considered someone who is "responsible for a child's welfare or who has responsibility for the care or supervision of a child, and the involvement of a juvenile in the abuse of another juvenile is addressed in section 50-25.1-05.3 of the North Dakota Century Code regarding

disposition of reports implicating a person not responsible for a child's health or welfare.

The proposed change on page 2 lines 4 and 5 adds a definition of "Alcohol misuse" to mean a pattern of drinking that results in harm to one's health, interpersonal relationships, or ability to work

The proposed change on page 2, lines 7, 9, and 10 replaces "newborns" with "infant" from the definition of an "alternative response assessment". "Infants" is later defined and this change will allow for an alternative response assessment up to 12 months of age, rather than 28 days of age.

The proposed change on page 2, lines 13 through 15, creates a definition of "child abuse information index" which allows for a "categorized registry of subjects of reports confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect".

The proposed change on page 5, line 12, replaces "chronic or severe use of alcohol" with "alcohol misuse" in conjunction with the new defined term of "alcohol misuse".

The proposed change on page 6, lines 14 through 16, replaces "newborn" with "infant". Prenatal exposure to controlled substance is used to refer to the fetal exposure to drug and alcohol use which can significantly increase the risk for developmental and neurological disabilities in a child.

Currently section 50-25.1-02 of the North Dakota Century Code defines a substance exposed newborn as an infant younger than twenty-eight days of age at the time of the initial report. This change in language will reflect the federal definition of substance exposed infants.

The definition also removes the word “abuse” and replaces it with “use” to align to language utilized in current practice and further enable the treatment needs of families with substance use to be addressed.

Subsection 25, page 6, line 18 through 21, is added to create a definition of “substance use disorder”, based on language in the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association. This would allow for a response to pregnant women related both to the use of alcohol and of controlled substances.

Section 2. The proposed change amends section 50-25.1-05 of the North Dakota Century Code by adding a reference to “title 34, Code of Federal Regulations, part 99” and to “a public or private school” for the purpose of including schools in the list of facilities that are required to disclose information to “the Department, or the authorized agent” to enable assessments of child abuse or neglect if permitted by federal law.

Section 3. The proposed change amends section 50-25.1-05.2 of the North Dakota Century Code, which defines the conditions upon which information is entered in the child abuse information index. Subsection 2 is amended to clarify that information will be entered into the index “after the time to appeal the confirmed or confirmed with unknown subject decision has expired”. Subsection 3 is created to clarify that “educational neglect” will not be a basis for filing a report of a “neglected child” for the purpose of the child abuse information index.

Section 4. The proposed change amends section 50-25.1-05.5 of the North Dakota Century Code to define the length of time a report shall remain on the child abuse information index and provides clarification on the index retention schedule and expungement procedures from those confirmed subjects of child abuse, neglect, or death resulting from abuse

or neglect. The current language does not reference a timeframe or retention or expungement procedure.

Section 5. The proposed change amends section 50-25.1-16 of the North Dakota Century Code. Subsection 3 removes language to better align to child protective services practice and replaces the word “may” with “must” when addressing the initiation of an assessment to address the use of a controlled substance by a pregnant woman. This would include a referral for assessment when the “presence of a substance use disorder” is noted, and the “expectation to follow any treatment recommendations”. The word “or” is removed and replaced with “and” to add the expectation of follow-through for a referral for prenatal care.

Subsection 4 was amended to include “continues to use controlled substances for a nonmedical purpose” as a trigger for reporting to occur.

Section 6. The proposed change amends section 50-25.1-17 of the North Dakota Century Code to add reference to “alcohol misuse” to the list of reasons that toxicology testing may occur after delivery where obstetrical complications have occurred. Current language only addresses the use of controlled substances, which does not include alcohol.

Section 7. The proposed change amends section 50-25.1-18 of the North Dakota Century Code to replace “alcohol abuse” with “alcohol misuse” to better address prenatal exposure to alcohol for reporting purposes and to provide consistency with the Diagnostic and Statistical Manual of Mental Disorders.

By including alcohol in toxicology testing requirements, providing clarification on alcohol misuse during pregnancy and expanding the defined age for substance exposure from “newborn” to “infant” will allow for the identification and provision of services as required under the

comprehensive addiction and recovery act's amendment of the Child Abuse Prevention Treatment Act (CAPTA) which requires that states have plans of safe care for substance exposed infants.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

March 6, 2023

SB 2103

Carl Young

Chair Weisz, members of the committee, my name is Carl Young. I am the Executive Director of FASD-ND. FASD stands for Fetal Alcohol Spectrum Disorders. We help support families of children born substance exposed to drugs or alcohol. My lobbyist ID is 136.

We stand neutral on this bill. Approximately 1 in 20 children are born substance exposed to drugs or alcohol. Of those, the vast majority are undiagnosed. Our agency struggles with getting schools to fully recognize FASD as a developmental disability that requires ongoing support in the schools and communities. Our schoolteachers struggle daily with "behavioral children". At FASD-ND we choose to see those behaviors as symptoms. Symptoms of possibly undiagnosed neurodivergent disabilities caused by exposure to drugs or alcohol in the womb.

With this bill we have a couple of questions. Will the non-identifiable data from the reports that this bill is sure to generate be made publicly available? This legislation may very well afford the opportunity to get a full grasp on the extent of the use of non-medicinal substances while pregnant. For those children born substance exposed, where do they turn for services to get the help that they need to live in their home community with the support that they will need?

A word of caution regarding unintended consequences. It is our belief that this legislation has the potential to expose a significant issue in our state. At some point that issue will need to be directly addressed with supports and funding that currently does not exist.

My son is 21 years old. I can tell you firsthand that the school to prison pipeline is an unmitigated success. He was born in 2001. One of the first meth babies born in the state. We struggled his whole life with getting him the support he needed to live in the community without being institutionalized. Currently he is in the Cass County Jail serving 120 days for theft of an automobile. The damage caused by the ingestion of drugs during pregnancy eliminated most of his deductive reasoning, and executive function skills. He doesn't understand cause and effect. While he knows he is in jail for stealing a car, it has little impact on his connection to the actual event.

I'll stand for any questions that you may have.