

2023 SENATE HUMAN SERVICES

SB 2321

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2321
2/13/2023

Relating to open adoption.

10:57 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Choices
- Best interest of children
- Protect all parties
- Protecting adoptive family
- Protecting birth family
- Exemption child welfare

10:58 AM **Senator Hogan** introduced SB 2321 in favor #20573

11:00 AM **Tracey Maesse**, testimony in favor #20556

11:03 AM **Carl Young, Executive Director of ND Fetal Alcohol Spectrum Disorder** testimony in favor verbal

11:05 AM **Kimberly Jacobson, Zone Director, Agassiz Valley Human Service Zone** testimony in favor with an amendment #20554

11:09 AM **Christopher Dodson, Executive Director, North Dakota Catholic Conference** in opposition verbal

11:18 AM **Madam Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

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Relating to open adoption.

4:15 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** were present.

Discussion Topics:

- Amendment
- Committee action

Senator Hogan proposed an amendment #20683

Senator K. Roers moves to adopt amendment.
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

Motion passed 6-0-0.

Senator Hogan moves **DO PASS** as **AMENDED**.
Senator Weston seconded.

Roll call vote.

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

Motion passed 4-2-0.

Senator Hogan will carry SB 2321.

4:26 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

February 13, 2023

JA
1/1
2-13-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2321

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study regarding open adoption policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - OPEN ADOPTION POLICIES REVIEW. During the 2023-24 interim, the legislative management shall consider studying the state's policies and relevant case law regarding open adoptions to determine the feasibility and desirability for legislation relating to clarifying communication and the rights of biological parents.

1. The study must include:
 - a. Existing state policies regarding open adoptions;
 - b. The current practices of collection and storage of personal, contact, and medical information of biological parents;
 - c. Benefits and consequences of adopting legislation that would extend legal enforceability to open adoption agreements;
 - d. Best practices for keeping birth children and their adoptive parents aware of health complications in biological family members over time;
 - e. Any information relevant to open adoption or open adoption agreements that the legislative management deems important in understanding the totality of the issue;
 - f. The potential financial costs to adoptive families, adoption agencies, and the court system; and
 - g. Any barriers to extending legal enforceability to open adoption agreements in the state of North Dakota.
2. The legislative management may seek the assistance of the department of health and human services and adoption agencies that partner with the state of North Dakota.
3. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2321: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2321 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study regarding open adoption policies.

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Renumber accordingly

2023 HOUSE JUDICIARY

SB 2321

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2321
3/14/2023

A BILL for an Act to provide for a legislative management study regarding open adoption policies.

9:30 AM Chairman Klemin opened the hearing. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. VanWinkle, and Rep. Vetter. Absent: Rep. Cory, Rep Schneider

Discussion Topics:

- Risks and benefits for open adoption.
- Open adoption guidelines.
- Legal responsibility.

Senator Hogan: Introduced the bill. Testimony #24197

The hearing closed at 9:37 AM.

Rep. Henderson moved a Do Pass;
Seconded by Rep. VanWinkle

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	A
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	A
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 10 Yes 1 No 2 Absent Motion carried.
Carrier: Rep. Henderson

The meeting closed at 9:40 AM

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2321, as engrossed: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (10 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed SB 2321 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2321

Testimony Prepared for the
Senate Human Services Committee
February 12, 2023
By: Kim Jacobson, Agassiz Valley Human Service Zone Director

RE: Senate Bill 2321 – Open Adoptions

Chair Lee and members of the House Human Services Committee, my name is Kim Jacobson. I am the Agassiz Valley Human Service Zone Director, which includes the service area of Traill and Steele Counties. In addition, I serve as President of the North Dakota Human Service Zone Director Association. Please consider my testimony in support of SB 2321 with suggested amendment.

In North Dakota, Human Service Zone Directors serve as the legal custodian of foster children. If a foster child is unable to be reunified with his/her parent and a termination of parental rights order is rendered by Juvenile Court, a foster child becomes eligible for adoption. When pursuing this permanency option for foster children, human service zones partner with AASK (Adults Adopting Special Kids) for adoptive recruitment, home study, and adoptive placement services. The decisions and legal actions regarding child welfare-related adoptions are subject to significant federal and state laws, timelines, and requirements. This is balanced along with making decisions that reflect the best interest of the child.

SB 2321 is aimed to support family connections during open adoptions. I support this flexibility during open adoptions to support birth families and adoptive families to voluntarily agree to terms of continued contact. To my understanding, open adoptions are adoptions that do not involve the child-welfare system. However, I notice that a definition of open adoption is not included in SB 2321.

My concern is that without further definition, this section could be misinterpreted to attempt application towards child welfare-related adoptions. If so, this may adversely impact required timelines, privacy and safety considerations, and would not provide a voice for the Human Service Zone Director, as legal custodian of the child, to consent to such contractual agreements. Therefore, I respectfully ask for the committee to include a definition of open adoption to this bill that would clearly exempt child welfare-related adoptions from this requirement.

Thank you for the opportunity to testify. I stand for questions from the committee.

With Roe vs Wade being over turned, now is the time more then ever to be bringing adoption to light and the different types of adoptions that can be an option. Not only that but we need to be able to protect all parties involved.

Adoption should be a time of celebration. For some it is a time of deep mourning. Not just because they are mourning the relinquishing of their rights to their baby but because they have discovered they have been coerced into the placement of their baby under false pretenses.

That is exactly what has happened to so many women, and in one article by Kathryn Joyce, talks about a 19-year-old young woman, who found herself with an unplanned pregnancy. She went to a maternity home for the pregnancy and to receive help in the decision of what to do, she decided to do an open adoption. From there the young woman fell into a deep depression after relinquishing her child to the adoptive family, who closed the adoption after initially agreeing that it should be an open adoption. She was never allowed to her to see her son again once placement happened.

I myself having done an adoption in the state of North Dakota, I know personally as a birth mother, the anxiety it provokes knowing that at anytime you could say or do something that could cause the adoptive family to close the adoption and cut off contact at any given time. I was walking on eggshells until my child turned 18. I was a lucky case, for the majority of the adoption it went fairly well, there was a point that things got rocky and I almost lost all contact because I spoke up about wanting what was best for our child.

As of now, there are no laws protecting the child or birth parents in the matter of open adoption in the state of North Dakota or any laws regarding open adoption. This means, you can enter an adoption agreement thinking you have an open adoption with the adoptive family but they have the right to close it for any reason at any time. With no ramifications. Even if it is not in the best interest of the child, even if it will do more harm to the child to close the adoption.

Studies have shown that open adoptions improve the adopted child's mental health and wellbeing as they age. The more open the adoption is, the better the outcomes for the child. According to the articles, "Review of Benefits and Risks for Children in Open Adoption Arrangements", and "Patterns and predictors of adoption openness and contact: 14 years postadoption"

Not only will this bill help children's mental health in the long run but it will benefit North Dakota in the as well with lowering the needs for mental health services for adoptees.

Testimony Senate Human Services
Senator Kathy Hogan
SB 2321 – Open Adoption
February 13, 2023

Chairman Lee and members of the committee: My name is Kathy Hogan.

This bill is a constituent request regarding regulations related to open adoption. In ND, there are few laws related to open adoption and a mother who is also a graduate social work student requested this piece of legislation based on her experience.

When she went through the open adoption process, she understood that ND had no laws regarding open adoption, but she felt she had a strong enough relationship with the adoptive parents that there wasn't a concern. Regretfully, that is not what happened. After the adoption was completed, the family cut off contacts.

The choice a birth parent makes to place a child is one of the most gut-wrenching decisions that they will ever have to make. Allowing them to make the choice and coming to an agreement with the adoptive family on the type of communication that is best for everyone all around gives them some sort of peace about the choice they are making. Studies show that the more open the adoption, the better for the child's wellbeing in the long run.

This legislation has been modeled after the Arizona model of open adoption. Here is a link to an excellent resource on adoption structure. <https://consideringadoption.com/adoptions-by-state/>

Although I am not an expert on adoption, this seems like a common sense piece of legislation.

Thank you for your consideration and I am more than willing to answer any questions.

2321

SECTION 1 – LEGISLATIVE MANAGEMENT STUDY – OPEN ADOPTION POLICIES

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**SB 2321 -- Testimony
House Judiciary Committee
Senator Kathy Hogan
March 14, 2023**

Chairman Klemin and members of the House Judiciary Committee, for the record my name is Kathy Hogan and I represent District 21 which is central Fargo and a corner of West Fargo.

This bill was introduced as a request from a constituent. She was a mother who had voluntarily given up her baby through the open adoption process. During that process, she assumed that she could have on-going contact with the adoptive parents and her child but that did not happen. During the hearing, we heard concerns about the bill as it was drafted, but we felt that the issue was a serious enough one that we should review current laws and practices to support and protect both birth and adoptive parents.

Many states are now looking at ways to encourage open adoption including providing financial support for home studies. SB 2321 considers the options, risks, and benefits of establishing guidelines for open adoptions. At its most basic, it is

an adoption when the adoptive and birth families share identifying information and have contact with each other during and after the adoption process.

The choice a birth parent makes to place a child is one of the most gut-wrenching decisions they will ever have to make. Studies show that the more open the adoption, the better for the child's wellbeing in the long run. When an adoption is finalized, the adoptive family has full legal responsibility for the baby.

Navigating these complex interpersonal and legal questions is now generating more and more questions that this study would begin to frame.

Everyone interested in this issue felt that this issue needs to be studied and thus this bill is in its current form. Here is a link to significant information on this issue.

<https://www.childwelfare.gov/pubpdfs/openadoption.pdf>

Thank you for your consideration and I am more than willing to answer any questions.