

2023 HOUSE HUMAN SERVICES

HB 1362

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1362
1/30/2023

Relating to recognizing a parent's interest in their child's upbringing.

Chairman Weisz called the meeting to order at 10:02 AM

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

Discussion Topics:

- Discipline from parents
- Necessity of bill
- Impact on teachers
- Role of school boards
- Amendments
- School engagement with parents
- Fundamental liberty and rights of parents

Representative Christensen introduced HB 1362 with supportive testimony (#17793).

Mark Jorritsma, Executive Director for North Dakota Family Alliance Legislative Action, testimony in support of bill (#17683).

Patricia Leno, North Dakota citizen, spoke in favor of bill.

Nick Archuleta, North Dakota United, testimony in opposition to bill (#17708).

Dr. Amiee Copas, Executive Director for the North Dakota Council of Educational Leaders, testimony in opposition to bill and proposed amendments (#17548 #17549).

Tracy Potter, former state legislature and North Dakota citizen, spoke in opposition to bill.

Additional written testimony:

- Vicki Grafing, North Dakota citizen, (#17609).
- Shawna Grubb, North Dakota citizen, (#17611).
- Lucia Singleton, North Dakota citizen and parent, (#17623).
- David Singleton, North Dakota citizen, (#17640).
- Amanda Pickard, North Dakota citizen and parent, (#17666).
- Miranda Grafing, North Dakota citizen, (#17672).
- Daniel Scrimshaw, Emergency Medicine Physician, (#17694).
- Lovita Scrimshaw, Emergency Medicine Physician, (#17695).
- Lisa Pulkrabek, North Dakota citizen, (#17702).

- Wade Pulkrabek, North Dakota citizen and parent, (#17703).
- Lydia Gessele, North Dakota citizen, (#17718).
- Michael Heilman, Executive Director for North Dakota Small Organized Schools, (#17727).
- Thresa Johnson, North Dakota Resident, (#17740)
- Richard Jensen, North Dakota Foster Parent, (#17743)
- Thea Holter, North Dakota Resident, (#17748)
- Kayla Gonser, North Dakota citizen and parent, (#28015).

Chairman Weisz adjourned the meeting at 10:41

AM Phillip Jacobs, Committee Clerk By: Leah Kuball

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1362
2/15/2023

Relating to recognizing a parent's interest in their child's upbringing.

Chairman Weisz called the meeting to order at 4:13 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

Discussion Topics:

- Committee work
- Amendment (23.0345.02003)

Representative Porter moved to adopt amendment to HB 1362 .#23.0345.02002 (#25712) plus (Removing on Pg. 2, Lines 1-3 and Pg. 3 removing language after "systems" and lines 7-8.)

Representative Ruby seconded motion.

Roll Call vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
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: 12-2-0

Representative Prichard moved to further amend with (Keeping the original changes and adding language at the beginning of section A)

Representative Ruby seconded motion.

Roll call vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
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: 12-2-0

Representative Anderson moved a DO PASS as amended 23.0345.02003

Representative Holle seconded motion.

Roll call vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
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: 12-2-0

Bill carrier: Representative Anderson

Chairman Weisz adjourned the meeting at 4:28 PM.

Phillip Jacobs, Committee Clerk By: Leah Kuball

February 15, 2023

24
2-15-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1362

Page 1, line 12, remove "Notwithstanding any other provision of law:"

Page 1, line 13, after "interest" insert "to raise the parent's child without undue government interference"

Page 1, line 18, remove "normal family life in a"

Page 2, remove lines 1 through 3

Page 2, line 4 replace "f." with "e."

Page 2, line 5, remove "simply because a parent may fail to be a model parent or"

Page 2, remove lines 7 and 8

Page 2, line 9, replace "h." with "f."

Page 2, line 15, remove ", concomitantly,"

Page 2, line 25, after "3." insert "If a parent's fundamental rights protected by this section are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against a governmental entity. The prevailing party in an action filed under this section is entitled to reasonable attorney's fees and costs."

4."

Page 3, line 1, replace "4." with "5."

Page 3, line 3 remove "The department of public"

Page 3, remove lines 4 and 5

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1362: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1362 was placed on the Sixth order on the calendar.

Page 1, line 12, remove "Notwithstanding any other provision of law:"

Page 1, line 13, after "interest" insert "to raise the parent's child without undue government interference"

Page 1, line 18, remove "normal family life in a"

Page 2, remove lines 1 through 3

Page 2, line 4 replace "f." with "e."

Page 2, line 5, remove "simply because a parent may fail to be a model parent or"

Page 2, remove lines 7 and 8

Page 2, line 9, replace "h." with "f."

Page 2, line 15, remove ".concomitantly."

Page 2, line 25, after "3." insert "If a parent's fundamental rights protected by this section are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against a governmental entity. The prevailing party in an action filed under this section is entitled to reasonable attorney's fees and costs."

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Page 3, line 1, replace "4." with "5."

Page 3, line 3 remove "The department of public"

Page 3, remove lines 4 and 5

Renumber accordingly

2023 SENATE HUMAN SERVICES

HB 1362

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

HB 1362
3/13/2023

Relating to recognizing a parent's interest in their child's upbringing.

3:47 PM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, and Hogan** were present.

Discussion Topics:

- Parents primary stakeholders
- Abuse or neglect
- Parental rights termination
- Child safety

3:47 PM **Representative Cole Christensen, District 24**, introduced HB 1326 and testified in favor. #24520.

3:48 PM **Patricia Leno** testified in favor. #24118.

4:04 PM **Representative Cole Christensen** provided additional information verbally.

4:15 PM **Christina Sambor, Attorney** testified in opposition verbally.

4:33 PM **Kimberly Jacobson, Zone Director Agassiz Valley Human Service, Trail, and Steele Counties**, testified in opposition. #23996.

4:44 PM **Cory Pedersen, Director of the Children and Family Services Department of Health and Human Services**, provided an amendment and testified neutral. #23994.

4:52 PM **Jim Fleming, Section Director of Child Support ND Department of Human and Health Services**, testified in opposition verbally.

4:59 PM **Barry Nelson Fargo Human Rights Commission**, testified online in opposition. #24027.

Additional Written Testimony:

Lilly Bunk, Assistant Teacher, Head Start, in favor #23797

Shawna Grubb in favor #23939

Aime Copas, Executive Director, North Dakota Council of Educational Leaders, in favor #23953

Sara Williams in favor #23958

Jocelyn Backman in favor #23992

Mark Jorritsma, Executive Director, North Dakota Family Alliance Legislative Action, in favor #24052

Senate Human Services Committee

HB 1362

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Bree Langemo, in opposition #23850

Whitney Oxendahl, in opposition #23974

Christopher Brown in opposition #24070

Faye Seidler in opposition #24119

Rozanna Larson, States Attorney, Ward County in opposition #24492

5:03 PM **Madam Chair Lee** adjourned the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

HB 1362
3/29/2023

Relating to recognizing a parent's interest in their child's upbringing.
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9:20 AM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, and Hogan** were present.

Discussion Topics:

- Parents primary stakeholders
- Abused or neglected children

Senator Cleary proposed amendment #26983 to the committee.

Additional Written Testimony:

Kristen Baesler, State Superintendent, North Dakota Department of Public Instruction
neutral #26950

9:22 AM **Madam Chair Lee** adjourned the meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

HB 1362
4/3/2023

Relating to recognizing a parent's interest in their child's upbringing.
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10:36 AM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, and Hogan** are present.

Discussion Topics:

- Parents primary stakeholders
- Children from abuse or neglect

Senator Lee calls for discussion.

Senator Hogan presents amendment. #27227

11:09 AM **Madam Chair Lee** adjourned the meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

HB 1362
4/4/2023

Relating to recognizing a parent's interest in their child's upbringing.

9:34 AM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, and Hogan** were present.

Discussion Topics:

- Parents primary stakeholders
- Children abuse or neglect

Senator Lee calls for discussion.

Senator Cleary proposed an amendment. #27271

Senator Cleary moves to **adopt amendment** with changes in chronicle order of items in subsection c, preventing, assessing, investigating, addressing, and prosecuting abuse and neglect.

Senator Hogan seconded the motion.

9:37 AM Jonathon Alm, attorney, ND Department of Human and Health Services, provided information verbally.

Roll call vote.

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

Motion passed 4-2-0.

9:46 AM **Jonathon Alm**, provided additional information verbally.

9:48 AM **Kimberly Jacobson, Agassiz Valley Human Service Zone Association,** provided information verbally.

Senator K. Roers moved **DO PASS** as **AMENDED**.

Senator Cleary seconded the motion.

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 Cleary will carry HB 1362.

10:21 AM **Madam Chair Lee** adjourned the meeting.

Patricia Lahr, Committee Clerk

April 4, 2023

at
4/4/23

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

Page 1, line 7, remove the underscored colon

Page 1, line 8, replace "a. "Parent"" with ", a "parent""

Page 1, line 9, remove ", and"

Page 1, remove line 10

Page 1, line 11, remove "organization or system"

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace "4." with "2."

Page 2, line 25, remove "fundamental"

Page 2, line 28, after "in" insert "preventing, assessing,"

Page 2, line 28, after the first underscored comma insert "addressing, and"

Page 2, line 28, remove ", and"

Page 2, line 29, remove "punishing"

Page 3, remove lines 1 through 3

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1362, as engrossed: 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). Engrossed HB 1362 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 7, remove the underscored colon

Page 1, line 8, replace "a. "Parent"" with ". a "parent""

Page 1, line 9, remove ": and"

Page 1, remove line 10

Page 1, line 11, remove "organization or system"

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace "4." with "2."

Page 2, line 25, remove "fundamental"

Page 2, line 28, after "in" insert "preventing, assessing."

Page 2, line 28, after the first underscored comma insert "addressing, and"

Page 2, line 28, remove ". and"

Page 2, line 29, remove "punishing"

Page 3, remove lines 1 through 3

Renumber accordingly

2023 CONFERENCE COMMITTEE

HB 1362

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1362
4/21/2023
Conference Committee

Relating to recognizing a parent's interest in their child's upbringing.

Chairman Kiefert called the meeting to order at 10:06 AM.

Chairman Dwight Kiefert, Reps. Brandon Prichard, Dawson Holle, Chairman Sean Cleary, Sens. Judy Lee, and Kathy Hogan present.

Discussion Topics:

- Amendments

Chairman Kiefert discussed proposed changes to HB 1362 in progress and announced the next meeting scheduled for 11:00 AM on Monday.

Chairman Kiefert adjourned the meeting at 10:09 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1362
4/24/2023
Conference Committee

Relating to recognizing a parent's interest in their child's upbringing.

Chairman Kiefert called the meeting to order at 11:00 AM.

Chairman Dwight Kiefert, Reps. Brandon Prichard, Dawson Holle, Chairman Sean Cleary, Sens. Judy Lee, and Kathy Hogan present.

Discussion Topics:

- Amendments

Rep. Prichard moved that the House accede to the Senate amendments.

Motion withdrawn.

Sen. Hogan proposed an amendment as follows:

Page 1, line 7, remove the underscored colon

Page 1, line 8, replace "□ "Parent"" with ", a "parent""

Page 1, line 9, remove "; and"

Page 1, remove line 10

Page 1, line 11, remove "organization or system"

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace "4." with "2."

Page 2, line 25, remove "fundamental"

Page 2, line 28, after "in" insert "preventing, assessing,"

Page 2, line 28, after the first underscored comma insert "addressing, and"

Page 2, line 28, remove ", and"

Page 2, line 29, remove "punishing"

Page 3, replace lines 1 through 3 with:

“3. This section may not be interpreted to supersede chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4.”

House Human Services Committee

HB 1362

4/24/2023

Page 2

Rep. Prichard moved that the Senate recede from Senate amendments and amend as follows 23.0345.03003.

Seconded by Sen. Hogan.

Motion carries 6-0-0.

Rep. Prichard will carry in the House and Sen. Cleary will carry in the Senate.

Chairman Kiefert adjourned the meeting at 11:04 AM.

Phillip Jacobs, Committee Clerk

April 24, 2023

AG
4-24-23
(1-1)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

That the Senate recede from its amendments as printed on pages 1631 and 1632 of the House Journal and pages 1393 and 1394 of the Senate Journal and that Engrossed House Bill No. 1362 be amended as follows:

Page 1, line 7, remove the underscored colon

Page 1, line 8, replace "a. "Parent"" with ", a "parent""

Page 1, line 9, remove "; and"

Page 1, remove line 10

Page 1, line 11, remove "organization or system"

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace "4." with "2."

Page 2, line 25, remove "fundamental"

Page 2, line 28, after "in" insert "preventing, assessing,"

Page 2, line 28, after the first underscored comma insert "addressing, and"

Page 2, line 28, remove ", and"

Page 2, line 29, remove "punishing"

Page 3, replace lines 1 through 3 with:

"3. This section may not be interpreted to supersede chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4."

Renumber accordingly

**2023 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL NO. 1362 as engrossed

House Human Services Committee

- Action Taken**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Prichard Seconded by: Sen. Hogan

Representatives	4/21		4/24		Yes	No	Senators	4/21		4/24		Yes	No
Chairman Keifert	X	X			Y		Chairman Cleary	X	X			Y	
Rep. Prichard	X	X			Y		Sen. Lee	X	X			Y	
Rep. Holle	X	X			Y		Sen. Hogan	X	X			Y	
Total Rep. Vote					3	0	Total Senate Vote					3	0

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Prichard Senate Carrier Sen. Cleary

LC Number 23.0345 . 03003 of amendment

LC Number 23.0345 . 05000 of engrossment

Statement of purpose of amendment:

To ensure that the bill does not be interpreted to supersede other sections of the North Dakota century code.

REPORT OF CONFERENCE COMMITTEE

HB 1362, as engrossed: Your conference committee (Sens. Cleary, Lee, Hogan and Reps. Kiefert, Prichard, Holle) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1631-1632, adopt amendments as follows, and place HB 1362 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1631 and 1632 of the House Journal and pages 1393 and 1394 of the Senate Journal and that Engrossed House Bill No. 1362 be amended as follows:

Page 1, line 7, remove the underscored colon

Page 1, line 8, replace "a. Parent" with ".a parent"

Page 1, line 9, remove ": and"

Page 1, remove line 10

Page 1, line 11, remove "organization or system"

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace "4." with "2."

Page 2, line 25, remove "fundamental"

Page 2, line 28, after "in" insert "preventing, assessing."

Page 2, line 28, after the first underscored comma insert "addressing, and"

Page 2, line 28, remove ". and"

Page 2, line 29, remove "punishing"

Page 3, replace lines 1 through 3 with:

"3. This section may not be interpreted to supersede chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4."

Renumber accordingly

Engrossed HB 1362 was placed on the Seventh order of business on the calendar.

TESTIMONY

HB 1362

23.0345.02000

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1362

Introduced by

Representatives Christensen, Bosch, Heilman, Kasper, Koppelman, Lefor, Meier, M. Ruby
Senators Boehm, Larsen, Paulson, Wobbema

1 A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota
2 Century Code, relating to recognizing a parent's interest in their child's upbringing.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 14-09 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Parent's interest in child's upbringing.**

7 1. As used in this section:

8 a. "Parent" means parent or legal guardian not including a school or other institution
9 servicing in loco parentis; and

10 b. "Stakeholder" means a person that has a vested interest in the success of the
11 organization or system.

12 2. Notwithstanding any other provision of law:

13 a. A parent possesses a fundamental liberty interest in the care, custody, and
14 management of the parent's child and, at all times, retains a vital interest in
15 preventing the irretrievable destruction of family life.

16 b. It is in the best interest and welfare of a child to be raised under the care and
17 supervision of the child's parents.

18 c. A child's need for a normal family life in a permanent home and for positive,
19 nurturing family relationships usually is best met by the child's parents.

20 d. The integrity of the family unit and the right of a parent to conceive, raise,
21 manage, train, educate, and reasonably discipline the parent's child should be
22 constitutionally protected.

- 1 e. The right of a fit, competent parent to raise the parent's child without undue
2 government interference is a fundamental liberty interest and is fundamental
3 public policy of this state.
- 4 f. The fundamental liberty interest of a parent is recognized, protected, and does
5 not cease to exist simply because a parent may fail to be a model parent or
6 because the parent's child is placed in the temporary custody of the state.
- 7 g. There is a rebuttable presumption that a parent's decisions are in the parent's
8 child's best interests.
- 9 h. A fundamentally fair process must be provided to a parent if the state moves to
10 challenge or interfere with parental rights.
- 11 (1) A government entity must support any actions or allegations made in
12 opposition to the rights and desires of a parent regarding the parent's child
13 by sufficient evidence to satisfy a parent's constitutional entitlement to
14 heightened protection against government interference with the parent's
15 fundamental rights and liberty interests and, concomitantly, the right of the
16 child to be reared by the child's parent.
- 17 (2) Before adjudication of unfitness, government action in relation to a parent
18 and the parent's child may not exceed the least restrictive means of
19 alternatives available to accomplish a compelling state interest.
- 20 (3) Until the state proves parental unfitness, and the child suffers, or is
21 substantially likely to suffer, serious detriment as a result, the child and the
22 child's parent share a vital interest in preventing erroneous termination of
23 their relationship and the state may not presume a child and the child's
24 parent are adversaries.
- 25 3. It is the public policy of the state that:
- 26 a. A parent retains the fundamental right and duty to exercise primary control over
27 the care, supervision, upbringing, and education of the parent's child;
- 28 b. A child has the right to protection from abuse and neglect; and
- 29 c. The state retains a compelling interest in investigating, prosecuting, and
30 punishing abuse and neglect.

- 1 4. The state's education systems are supportive and secondary to the primary role of a
2 parent. The legislative assembly is the primary stakeholder in the establishment,
3 maintenance, and success of the state's education systems. The department of public
4 instruction is the primary stakeholder in the state's public education system. The board
5 of a school district is a secondary stakeholder in the state's public education system.



1 Testimony in support with request for amendment

2 HB 1362

3 Chairman Weiss and members of the House Human Services Committee. For the record
4 my name is Dr. Aimee Copas and I serve as the executive director for the North Dakota
5 Council of Educational Leaders. NDCEL represents all your school leaders throughout
6 the state including Superintendents, Principals, and all other administrators and
7 directors.

8 We come to you today with enthusiasm that parents are so very excited about engaging
9 in the lives of their children and in their children's education. We do ask for a minor
10 amendment to this bill so that it is very clear the role of education in the lives of the
11 children and in partnership with the parent. For years we as educators have witnessed
12 the real retreat of parental involvement in our schools and lack of desire for parents to
13 provide ground rules, basic parenting in manners, conduct, and in support of our
14 educators who are not only trying to teach them basic academics but who are acting *in*
15 *loco parentis* as is their responsibility according to the setting they work in. "In loco
16 parentis" refers to the rights and responsibilities that certain organizations or individuals
17 have about minors under their care. The term is typically used in reference to schools
18 with respect to how the teachers and staff should behave toward the students. It can be
19 used in a way that is meant to ensure schools have the rights to do what is necessary in
20 the students' best interests, such as locker searches. "In loco parentis" can also refer to
21 the responsibilities a teacher has for his or her students as the acting guardian for
22 students in a classroom. As defined by the courts, this phrase has two fundamental
23 applications about how schools and school employees are expected to behave with

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for all students in North Dakota.*

Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz



1 students. One major use of the term is in reference to the rights schools have about
2 students and behavior issues. Since a school is seen to be acting in the place of the
3 parents of every student at the school, the school is expected to act in the highest regard
4 to all students. This is the basis for actions such as locker searches, student conduct
5 policies, and dress codes. Truly – local educators and school employees (teachers,
6 administrators, paras, bus drivers, cooks, aids, coaches, etc.) are all key partners in
7 assisting to create the contributing citizens to our state and world that we are hoping to
8 create.

9 We love the concept of this invigoration in parent engagement because we as educators
10 really miss the days of when a teacher would call home with an issue that was being seen
11 at school and the parent was a partner in a resolution instead of immediately assuming
12 their child could have “NEVER” done anything like that and point blame back at the
13 school. Remember when we got in trouble at school, and it usually meant we were in
14 more trouble when we got home. As educators, we are telling you-that partnership is
15 one that we miss terribly. The kids know they have the upper hand in this one. They’re
16 smart – and we (educators and parents) need to re-lock our arms. Parents stepping back
17 into the arena with us is wonderful.

18 Please know our educators approach their life’s work and life’s mission – to provide for
19 a great education for kids – with a heart to do what is right for all students who enter
20 the doors of their schools. Schools have witnessed a development of hostility to
21 education in the national rhetoric and it has seeped into the fiber of North Dakota. Most
22 parents would say...”my kid’s teacher is fantastic, but we are fearful that our system of
23 public education indoctrinates children in a left-wing ideological agenda; that public

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1 schools alienate children from their families and cultures, thereby undermining parental
2 authority; and that, basically, the goal of public education is to enlist children on the
3 wrong side of our current culture wars. Except...have you recently noticed the
4 conservative nature of our state? Your teachers and administrators and school staff are
5 a part of the North Dakota culture too. We are your next-door neighbors, were your
6 friends in high school, go to your church, have children in those schools as well, and by-
7 in-large have the same conservative mindset of the parents they work with. We implore
8 you to not allow this to become a playground for hostility. Allow this law to guide
9 partnership.

10 This brings me to our request for a clarifying amendment. This amendment does not
11 change the spirit of the bill, but rather helps everyone understand their role and perhaps
12 aligns it even more appropriately. One area is in defining what a fundamental liberty
13 and what a fundamental right is in accordance with this potential section of law.
14 “Fundamental,” “liberty,” and “right” are all terms that create a lawyers dream of grey
15 area. They are used throughout US law in more ways than one can imagine. It is
16 important to clarify what that means in this section of law.

17 Please see the attached amendment. We would ask that in the definition section we
18 add a definition of “fundamental liberty” and “in loco parentis” as it pertains to this
19 section of code. Fundamental liberty is “implicit in the concept of ordered liberty” that
20 “neither liberty nor justice would exist if they were sacrificed. In a public school
21 setting when parents are not physically present, fundamentals of in loco parentis are
22 required. The term “in loco parentis” is a Latin phrase that translates as “in place of a
23 parent” or “instead of a parent” and refers to how schools’ teachers and school

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1 administrators are expected to act with reference to students and other minors. In
2 other words, the employees of a school are charged by the parents of the students to
3 act on their behalf while the students are there.

4 We furthermore ask that section 4 be removed from the bill or amended to indicate the
5 partnership between schools and parents. We'd ask it to be stricken or adjusted to
6 reflect the following more accurate depiction:

7 4. The state's K-12 education systems are supportive and secondary to the primary
8 role of a parent. The legislative assembly is the primary stakeholder in the
9 establishment, maintenance, and success of the state's education systems. ~~The~~
10 ~~department of public instruction is the primary stakeholder in the state's public~~
11 ~~education system. The board of a school district is a secondary stakeholder in~~
12 ~~the state's public education system.~~ The key stakeholder in the execution of the
13 will of the legislative assembly is the public-school systems, including teachers,
14 administrators, school boards and all school staff in partnership with parents.

15

Dear Chairman and esteemed committee members

Please render a DO PASS on HB1362 I copied and pasted the part of the bill that is so crucial to us North Dakotans as parents and for our children as they parent. This bill does indeed reflect the community standard of North Dakota. So often, people listen to the loud minority as they shout on social media, or they see and hear the same talking points injected into our society through a mockingbird media that has not reflected the trueness of North Dakota for a very long time. I ask all of you to reject the loud minority of voices presented to you, and seek to ask your own communities, "What would you like to see? Do you believe parents have a fundamental liberty interest in the care, custody, and management of their children? Do you believe in most cases, the best case scenario for a child is to be raised by their parents? Do you believe permanent homes and nurturing families are the best interest of a child? Do you believe the integrity of the family unit and all that goes along with that should be constitutionally protected? Ask your district those questions. I believe you will get a resounding YES from at least 85% of them. Why? Because I know the demographics of the people of North Dakota. They believe this! They desire this! They want it in their ND Century Code and protected. Please do that for them. Thank you.

Notwithstanding any other provision of law:

- a. A parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child and, at all times, retains a vital interest in preventing the irretrievable destruction of family life.
- b. It is in the best interest and welfare of a child to be raised under the care and supervision of the child's parents.
- c. A child's need for a normal family life in a permanent home and for positive, nurturing family relationships usually is best met by the child's parents.
- d. The integrity of the family unit and the right of a parent to conceive, raise, manage, train, educate, and reasonably discipline the parent's child should be constitutionally protected.

HB 1362 – Parental Rights

Members of the House Human Services Committee,

My name is Shawna Grubb and I reside in District 35. I am asking that you please render a DO PASS on House Bill 1362.

Parents have a fundamental right to direct the education and upbringing of their children, including by homeschooling them.

Parental rights are necessary to promote the creation of an environment in which citizens live together peacefully and engage in civic life.

Unless the state has a compelling case, it must respect the rights of parents to raise their children as they see best.

Thank you for your consideration and service to the people of North Dakota.

Shawna Grubb

It is Sunday afternoon as I write this. I had just sat down by the fireplace with a good book for a rare chance to read something other than The Very Hungry Caterpillar or the rough draft of a middle schooler's book report when I received an email that the House Human Services Committee will be hearing **HB 1362** the next day. I was tempted to think to myself: *They'll do what they're going to do, regardless of what one little testimony might say. I probably am not going to change anyone's mind.*

Then one of my little ones looked up at me, smiling and giggling over the toy he was proud to have mastered. I wondered what he would say if he knew that his mama did nothing, NOTHING to try and influence the decision being made tomorrow that could have major impacts on his life. As the one entrusted with his care, his growth, his life, is it not my duty to do everything possible to positively impact him, even if I question the effectiveness of my efforts? At least, I can tell him (and myself) that I tried.

Ladies and Gentlemen, this is real and it is raw. I have vomited nearly nonstop for five consecutive months for each of my six pregnancies. I have given birth naturally, unmedicated, by C-section, and by VBAC. I have changed over 37,000 diapers, prepared over 71,000 meals, some of which were appreciated, and many of which were not. I have cleaned up carpet and bedding in the middle of the night when a child has been sick, showed them how to wash dishes, and helped them cry and understand and tried to comfort them when their uncle died. I have witnessed their trepidation and their joy upon taking first steps, learning to read, decorating a Christmas tree, and learning how to make friends. I have loved each one of their sloppy kisses as toddlers and cherished real, meaningful hugs from teenagers who are nearly as tall as I am. Their drawings and photos and magnet letters cover my refrigerator, and every night before I go to bed I look at a wall hanging my daughter gave me that says "I love that you're my Mom." And I decide to wake up the next morning, with God's help, to try to be worthy of that love she freely gives me.

Now, some of you may be moved to tears, and others of you may be internally rolling your eyes. My goal in sharing this with you is neither of those reactions, but instead to ask you, respectfully, that until you are willing to *die* for my children, as I am willing to *die* for them, that you PASS HB 1362, and establish that parents are the primary stakeholders in the upbringing, education, and care of their children.

Thank you taking the time to read this testimony.

As a parent in North Dakota, I am in favor of HB 1362.

HB1362

DEAR COMMITTEE

Please give a DO PASS to this bill. As a mom of 3 kids, it's very important that my husband and I are positioned as the authority in our children's lives. This bill is full of so much that is necessary. Please do what's best for us and our kids and pass this bill.

Thank you for your consideration

Dear Committee

Please DO PASS this bill. The children of North Dakota deserve the best. And this will help get them there. Civilization has been crumbling for quite a while. It always collapses from the inside out. Stop the crumbling and do what's best for the future of the kids of North Dakota and my future children, as I plan to stay here and raise my family just as my parents, grandparents, great-grandparents and even my great-great grandparents did. I was raised loving my state. It's time to do the work needed to save it.

Thank you,

Miranda Grafing



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony in Support of House Bill 1362

Mark Jorritsma, Executive Director
 North Dakota Family Alliance Legislative Action
 January 30, 2023

Dear Chairman Weisz and honorable members of the House Human Services Committee. My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of House Bill 1362 and respectfully request that you render a “DO PASS” on this bill, with suggestions.

The idea behind this bill is that parents are the final arbiters of all aspects of their children’s lives. North Dakota Family Alliance Legislative Action believes that the family was instituted by God and was intended as the optimal environment to raise children. To quote Sections 2a and 2b of the bill:

a. A parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child and, at all times, retains a vital interest in preventing the irretrievable destruction of family life. b. It is in the best interest and welfare of a child to be raised under the care and supervision of the child's parents.

We wholeheartedly agree. It is sad that we as a society even need to specify that parents are the authority when it comes to their own children. We are not oblivious to single-parent families or relatives raising children – they are a significant portion of all U.S. families. Actually, this bill ensures that they, who are often marginalized or discounted because of their family structure, are granted the same liberties as traditional two-person families. You might also note that the bill does not exclude same-sex families – this bill does not play favorites.

We appreciate the sponsor’s inclusion of bill sections that address parents who are unfit for their responsibilities. There are limits to a parent’s rights and this is acknowledged.

As I said, we are very much in favor of this bill. That said, we have some concerns with sections 2c, 2f, and 2g. Nowhere in the bill is the term “normal family life” defined, as used in section 2c. Further, sections 2f and 2g seem to negate or at least confuse the issue of when

1515 Burnt Boat Dr., Suite C-148, Bismarck, ND 58503
mark@Ndfamilyalliance.org
 701-355-6425
www.ndfamilyalliance.org

parental rights are to be trumped by governmental interests. For this reason, we suggest that these two sections be removed, or at the least clarified vis-à-vis section 3 of the bill which address parental abuse of their children.

As I stated, North Dakota Family Alliance Legislative Action supports HB 1362 and requests that the committee render a “DO PASS” on the bill, with the request that the aforementioned sections are reviewed and amended as necessary.

Thank you for your time and I’d be happy to stand for any questions.

Testimony in Support of HB 1362

Dr. Daniel Scrimshaw, DO, Emergency Medicine Physician

Dr. Lovita Scrimshaw, DO, Emergency Medicine Physician

American Academy of Medical Ethics, North Dakota State Directors

January 26, 2023

Good morning Chairman Weisz and the honorable members of the House Human Services Committee. We are physicians in Minot, ND, and also serve as the North Dakota State Directors of the American Academy of Medical Ethics. We are testifying in regard to HB 1362 and respectfully request that you render a "DO PASS" on this bill to protect the rights of parents in the upbringing of their child/children. HB 1362 is a good and common sense bill.

Testimony in Support of HB 1362

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Members of the House Human Services Committee,

My name is Lisa Pulkrabek and I reside in District 31. I am asking that you please render a DO PASS on House Bill 1362.

Children come from God and are born into a family for love, nurturing and education, all done according to the parent's best judgment. Parents are the first and most important educators of their children. Parents are legally responsible for a child until that child reaches the age of 18. Parents know and love their children better than any other person, teacher, healthcare provider or government agent does.

Contrary to what some misguided Americans may think these days, children do not belong to the state or to the school system. There is an ever growing train of thought that says that if parents don't follow certain liberal ideologies or adhere to certain left, progressive, secular worldview that the rights of those parents to parent their children should be stripped away. We may not have any real life examples of this happening in our state yet, but it has happened in other states. This is a preemptive bill - therefore I support this bill and ask that you render a DO PASS on it.

Thank you for your time and consideration.

Lisa Pulkrabek

Members of the House Human Services Committee,

My name is Wade Pulkrabek and I reside in District 31. I am asking that you please render a DO PASS on House Bill 1362.

This country was founded on freedom. My kids are mine and my wife's, they were born into our family given to us by God not by the government. No government or school system or social service agency should be able to strip away my rights as a parent unless I am found guilty of neglect or abuse. These crazy left, liberal, woke people who want parents to change their values or give up their kids have no legal or moral standing to demand such things.

This is a preemptive bill - therefore I support this bill and ask that you render a DO PASS on it.

Thank you for your time and consideration.

Wade Pulkrabek



Great Public Schools

Great Public Service

Testimony Before the House Human Services Committee
HB 1362
Monday, January 30, 2023

Chairman Weisz and members of the Committee, for the record, my name is Nick Archuleta, and I am the president of North Dakota United. I appear before you today in opposition to HB 1362 and to urge a ***do not pass*** recommendation for this bill.

Mr. Chairman, in reviewing HB 1362, I am not sure this bill is even necessary. I did a bit of research over the weekend and learned that the fundamental rights in the “companionship, care, custody, and control of children are considered implicit in the Due Process Clause of the 14th Amendment, as a form of ‘liberty’ that may not be infringed upon without due process of law.” (Minn.App.1998)

In ND, Mr. Chairman and members of the Committee, the ND Supreme Court has ruled consistently since the 1943 case, *State v. Cromwell*, that parents have fundamental rights regarding their children. According to Google Scholar, the ND Supreme Court has reliably ruled that “Parents have a fundamental, natural right to their children which is of constitutional dimension.”

Chairman Weisz, given that the Supreme Court of the United States and the ND Supreme Court have already ruled on the fundamental rights of the parent, we are at a loss to identify the problem this bill is trying to solve. In North Dakota, public school teachers, administrators, and school boards have historically worked with parents to put their children at the center of our best intentions. We have adopted best practices in classroom management and pedagogy. We have incorporated educational standards developed by North Dakota teachers for North Dakota’s students. We have developed and employed any number of means to improve and maintain communications with parents in every neighborhood served by a public school in North Dakota.

Mr. Chairman, HB 1362 takes none of that into account. This proposed legislation, if it were to pass both chambers and be signed into law by Governor Burgum, would make it very difficult for teachers, administrators, and school boards to develop and implement a variety of strategies and policies necessary to ensure effective teaching and learning in schools across North Dakota. Subsection 4 of Section 1 indicates, to me at least, that North Dakota's education systems are subservient to the wishes of every parent in North Dakota. At the local level, it seems, one or two parents could scuttle whole strategies for continuous school improvement for any reason or none at all. In short, under this legislation, the will of the majority of those who elected a local school board could be stopped by the will of a few disaffected citizens. And how far does the parental primary role extend? Can they make hiring decisions? Can they terminate teachers and principals with whom they disagree?

Mr. Chairman and members of the Committee, North Dakota's teachers have told us, and shown us, that they value parental involvement in the education of their children and that they want more of it. Parents currently have myriad avenues by which to know what is being taught in their kids' classrooms, and which materials are being utilized to enhance student learning. Locally elected school board members, administrators, and teachers are happy to talk to parents about their child's education.

With that, Chairman Weisz and members of the Committee, I urge a ***do not pass*** recommendation for HB 1362.

*Members of the House Human Services Committee,
"My name is Lydia Gessele and I reside in District 14. I am asking that you
please render a DO PASS on House Bill 1362."*

Parents know how to care for, nurture and raise their children. It is our fundamental liberty to protect our children and be involved in their education. The parental rights of parents need to be upheld and that is why I support this bill and ask that you will as well.



North Dakota Small Organized Schools

Mr. Michael Heilman
Executive Director
3144 Hampton Street
Bismarck, ND 58504
mheilmannndsos@gmail.com
701-527-4621

Mr. Brandt Dick
President
1929 N. Washington Steet. Ste.A
Bismarck, ND 58501
Brandt.Dick@k12.nd.us
701-415-0441

Mr. Steven Heim
Vice-President
PO Box 256
Drake, ND 58736
Steve.heim@k12.nd.us
701-465-3732

HB 1362– Testimony in Support with Changes
House Human Services Committee
Representative Weisz – Chairman
January 30, 2023

Chairman Weisz and members of the House Human Services Committee, my name is Michael Heilman. I am the Executive Director of the North Dakota Small Organized Schools (NDSOS). I represent 154-member school districts of the North Dakota Small Organized Schools.

Like NDCEL we too agree with most of this bill and support the amendments proposed by Dr. Copas. NDSOS believes that the primary stakeholder in the education of a child, is the child and the parents of that child. Those same parents that reside in the local school districts and elect their local school board members. We feel the intent of section 4 of this bill could undermine that local authority. That may not be the intent of the bill, but if it is interpreted in that manner, it would seem local school board no longer have any authority and serve no purpose. Local school boards are charged with running local schools within the parameters set by this body and with support and oversight from the Department of Public Instruction. NDSOS believe and supports that structure. We also believe that the current structure ensures decisions impacting parents and children in local school districts is best made by local school boards and the people that elect them.

Mr. Michael Heilman – Executive Director
North Dakota Small Organized Schools
mheilmannndsos@gmail.com
701.527.4621

Board of Directors

Region 1

Mr. Tim Holte, Supt. Stanley
Mr. John Gruenberg, Supt. Powers Lake

Region 2

Mr. Jeff Hagler, Supt. North Star
Mr. Steven Heim, Anamoose & Drake

Region 3

Dr. Frank Schill, Supt. Edmore
Mr. David Wheeler, Supt. Manvel

Region 4

Mr. Brian Christopherson, Supt. New Salem
Dr. Kelly Peters, Supt. Richardton-Taylor

Region 5

Mr. Rick Diegel, Supt. Kidder Co.
Mr. Brandt Dick, Supt. Burleigh County

Region 6

Mr. Mitch Carlson, Supt. LaMoure
Dr. Steven Johnson, Supt. Lisbon

The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.

As a parent in North Dakota, I am in favor of HB 1362.

HB 1362

Testimony In Favor of bill ND House Bill HB-1362.

Dear Members of House committee for Health Services

I am providing testimony in favor of the bill for parental rights. I was a foster parent for 3 years in Washington State prior to adopting 2 boys from the system. In seeing the parents lose their kid to the foster system, I understand that the social services system should bend to try to get the parents back on track so that they can get their kids back. While Hillary Clinton said it takes a village to raise a child, the responsibility still lies on the parents for nutrition, protection, education, shelter, and social education of a child. Neighbors are still kind and supporting the process, and the government only stepping in when the parents have obviously dropped the ball until they get back on track, and get the ball back.

Thank you

Richard W. Jensen

Bismarck, ND

Members of the House Human Services Committee,

“My name is Thea Holter and I reside in District 1. I am asking that you please render a DO PASS on House Bill 1362.”

It is the state’s obligation to secure parental rights particularly as the medical establishment continues to become increasingly more ideologically-motivated. WPATH, the world’s leading association on transgender health, recently removed minimum age requirements for “gender-affirming care” and suggests that if parents do not affirm their child’s newly chosen identity, the state may be enabled to intervene in order to assist with the child’s medical and social transition

.There is a also growing movement to make homeschooling appear dangerous and extreme. Some are even calling for an outright ban. Secular progressivists believe that the state’s influence and values should be equal to or supersede those of parents. This is very scary to me as I homeschool my youngest daughter. We have a large community of parents passionate about our children’s education who also homeschool. It is our fundamental right to decide the way our children are educated.

Thank you for for your service to our state and deliberating this issue at hand.

Thea Holter



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

#17793



Representative Cole Christensen

District 24
P.O. Box 176
Rogers, ND 58479-0176
C: 701-659-1776
colechristensen@nd.gov

COMMITTEES:

Judiciary
Transportation

1/30/2023

Mr. Chairman and members of the committee,

My name is Cole Christensen, Representative from District 24. I am here to testify in support of HB 1362.

This bill is a continuation of the resolution that was unanimously passed last special session. That resolution HCR 3049 declared that Parents are the Primary stakeholders over their child's future. The goal of this bill is to strengthen the family, which is the backbone to our society. I believe North Dakota is the state you want to move to and raise your family in. This bill re-affirms that, and declares that we not only support, but protect parenthood.

While this bill was being drafted, I knew there would be a couple of these subsections that needed some work. Some of the terms being used are not defined in century code, and I would recommend the committee review section 2 subsections C, F, and G to either amend or remove them. I would support making the necessary changes and give this bill a do-pass recommendation.

I will stand for questions.

03/11/2023

Dear Honorable Members of the North Dakota senate,

My name is Lilly Funk, and I live in Minot, North Dakota. I am a federal employee at Head Start (as an assistant teacher). The purpose of this written testimony is to persuade members of the North Dakota senate to support HB 1362.

I am in support of this bill because I believe in the right of families to maintain their privacy and decision-making concerning raising their children. It is unethical for public schools to make decisions for children, especially without parental knowledge. Schools must not be able to keep secrets from parents about their children, especially if the secret relates to medical treatments.

In some states, educators have attempted to provide access to hormone replacements or surgery options for students who state that they are the opposite of their biological sex. This is not only morally wrong, but it presents a vast number of dangers to children including a higher risk for diabetes and heart disease as an adult, the unknown risks of pausing puberty (this is disruptive of the human body's natural processes), a negative impact on brain development, mood changes, reduction/cessation of fertility, the inability to experience sexual pleasure as an adult, a correlation to an increased risk of cancer, and even more risks.

Thank you for your consideration to make the right decision and pass HB 1362!

Lilly Funk

As a mother of a transgender teen in the North Dakota Public School System, I strongly oppose HB 1362. Transgender children should be able to explore their gender identity, and schools are often a safe space to do so. Research shows that trans youth suicidality is reduced when they feel that they have an adult to talk to. Sometimes, this adult is in the school setting. This bill would remove a safe space for transgender children which can lead to a detrimental effect on their mental health. Please do not support this legislation as it is harmful and discriminates against transgender people.

HB 1362 – Parental Rights

Members of the Senate Human Services Committee,

My name is Shawna Grubb and I reside in District 35. I am asking that you please render a DO PASS on House Bill 1362.

Parents have a fundamental right to direct the education and upbringing of their children, including by homeschooling them.

Parental rights are necessary to promote the creation of an environment in which citizens live together peacefully and engage in civic life.

Unless the state has a compelling case, it must respect the rights of parents to raise their children as they see best.

Thank you for your consideration and service to the people of North Dakota.

Shawna Grubb



1 Testimony in support with request for amendment

2 HB 1362

3 Chairwoman Lee and members of the Senate Human Services Committee. For the record
4 my name is Dr. Aimee Copas and I serve as the executive director for the North Dakota
5 Council of Educational Leaders. NDCEL represents all your school leaders throughout
6 the state including Superintendents, Principals, and all other administrators and
7 directors.

8 We come to you today with enthusiasm that parents are so very excited about engaging
9 in the lives of their children and in their children’s education. We do ask for a minor
10 amendment to this bill so that it is very clear the role of education in the lives of the
11 children and in partnership with the parent. For years we as educators have witnessed
12 the real retreat of parental involvement in our schools and lack of desire for parents to
13 provide ground rules, basic parenting in manners, conduct, and in support of our
14 educators who are not only trying to teach them basic academics but who are acting *in*
15 *loco parentis* as is their responsibility according to the setting they work in. “In loco
16 parentis” refers to the rights and responsibilities that certain organizations or individuals
17 have about minors under their care. The term is typically used in reference to schools
18 with respect to how the teachers and staff should behave toward the students. It can be
19 used in a way that is meant to ensure schools have the rights to do what is necessary in
20 the students' best interests, such as locker searches. “In loco parentis” can also refer to
21 the responsibilities a teacher has for his or her students as the acting guardian for
22 students in a classroom. As defined by the courts, this phrase has two fundamental
23 applications about how schools and school employees are expected to behave with

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1 students. One major use of the term is in reference to the rights schools have about
2 students and behavior issues. Since a school is seen to be acting in the place of the
3 parents of every student at the school, the school is expected to act in the highest regard
4 to all students. This is the basis for actions such as locker searches, student conduct
5 policies, and dress codes. Truly – local educators and school employees (teachers,
6 administrators, paras, bus drivers, cooks, aids, coaches, etc.) are all key partners in
7 assisting to create the contributing citizens to our state and world that we are hoping to
8 create.

9 We love the concept of this invigoration in parent engagement because we as educators
10 really miss the days of when a teacher would call home with an issue that was being seen
11 at school and the parent was a partner in a resolution instead of immediately assuming
12 their child could have “NEVER” done anything like that and point blame back at the
13 school. Remember when we got in trouble at school, and it usually meant we were in
14 more trouble when we got home? As educators, we are telling you-that partnership is
15 one that we miss terribly. The kids know they have the upper hand in this one. They’re
16 smart – and we (educators and parents) need to re-lock our arms. Parents stepping back
17 into the arena with us is wonderful.

18 Please know our educators approach their life’s work and life’s mission – to provide for
19 a great education for kids – with a heart to do what is right for all students who enter
20 the doors of their schools. Schools have witnessed a development of hostility to
21 education in the national rhetoric and it has seeped into the fiber of North Dakota. Most
22 parents would say...”my kid’s teacher is fantastic, but we are fearful that our system of
23 public education indoctrinates children in a left-wing ideological agenda; that public

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1 schools alienate children from their families and cultures, thereby undermining parental
2 authority; and that, basically, the goal of public education is to enlist children on the
3 wrong side of our current culture wars. Except...have you recently noticed the
4 conservative nature of our state? Your teachers and administrators and school staff are
5 a part of the North Dakota culture too. We are your next-door neighbors, were your
6 friends in high school, go to your church, have children in those schools as well, and by-
7 in-large have the same conservative mindset of the parents they work with. We implore
8 you to not allow this to become a playground for hostility. Allow this law to guide
9 partnership.

10 This brings me to our request for a clarifying amendment. This amendment does not
11 change the spirit of the bill, but rather helps everyone understand their role and perhaps
12 aligns it even more appropriately. One area is in defining what a fundamental liberty
13 and what a fundamental right is in accordance with this potential section of law.
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18 add a definition of “fundamental liberty” and “in loco parentis” as it pertains to this
19 section of code. Fundamental liberty is “implicit in the concept of ordered liberty” that
20 “neither liberty nor justice would exist if they were sacrificed. In a public school
21 setting when parents are not physically present, fundamentals of in loco parentis are
22 required. The term “in loco parentis” is a Latin phrase that translates as “in place of a
23 parent” or “instead of a parent” and refers to how schools’ teachers and school

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1 administrators are expected to act with reference to students and other minors. In
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4 We furthermore ask that section 4 be removed from the bill or amended to indicate the
5 partnership between schools and parents. We'd ask it to be stricken or adjusted to
6 reflect the following more accurate depiction:

7 4. The state's K-12 education systems are supportive and secondary to the primary
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10 ~~department of public instruction is the primary stakeholder in the state's public~~
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12 ~~the state's public education system.~~ The key stakeholder in the execution of the
13 will of the legislative assembly is the public-school systems, including teachers,
14 administrators, school boards and all school staff in partnership with parents.

15

Senate Human Services Committees Members,

My name is Sara Williams and I reside in District 37. I am asking that you please render a DO PASS on HB 1362. As parents we possess a fundamental liberty interest in the care, custody, and management of our children. As parents we are asking that our rights be protected against the current attacks on our rights to raise our children without the interference of the State. Passing this bill will help to secure our rights to educate our children as we see fit and to ensure parents are not left out of the medical decision making and care of their children.

Senate Human Services Committee
March 13th, 2023
HB 1362 - Testimony in Opposition

Chair Lee and members of the Senate Human Services Committee, my name is Whitney Oxendahl and I am writing in opposition to HB 1362. I oppose this bill because I am a parent of three small children, and this bill is unnecessary. Parents already have rights in North Dakota.

There are parts of the bill that are ill-defined like “the right of parents to... reasonably discipline the parent's child” on lines 20-21. What type of discipline is reasonable? The bill does not define it.

The language of the bill on page three is especially disconcerting: “The state's education systems are supportive and secondary to the primary role of a parent.” Education should be a collaboration among stakeholders, including parents, teachers, the school board, and other school staff.

I am concerned this bill will be used to require public schools to make decisions based on the whims of a few parents who try to direct staff, teachers, and administration on how to run the school or the district. This could impact my children's education.

I am a strong supporter of parent involvement in their children's education, and there are already avenues for concerned parents to make their voices heard. They can get involved in the PTA. They can reach out to their child's teacher who is there to work with parents on their concerns. Parents can also reach out to school board members, speak at school board meetings, or file to run as a candidate for school board.

This bill is a copy and paste of what other states are doing, like Florida and Utah. This is not a North Dakota solution to a North Dakota problem. There is not a problem. Please give HB 1362 a Do Not Pass recommendation.

Thank you for the opportunity to share my testimony.

Dear Senate Human Services Committee members,

My name is Jocelyn Backman and I live in District 13, I am writing to you today IN FAVOR of HB 1362 - A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to recognizing a parent's interest in their child's upbringing.

It is imperative that we put the word "parent" into our State's century code, and it was honestly shocking to me that it wasn't already in there. How we raise our children is up to the parent(s) to decide, not the school system or government. When you hear the words "It takes an army to raise a child", those words are 100% accurate. However, it's who the parents choose as that army, not anyone else.

Thank you for your time and for all your hard work. I urge you to PASS this bill.

Jocelyn Backman

District 13

Testimony
Engrossed House Bill No. 1362
Senate Human Services Committee
Senator Lee , Chairman
March 13, 2023

Chairman Lee, and members of the Senate Human Services Committee, I am Cory Pedersen, Director of the Children and Family Services Section (CFS) with the Department of Health and Human Services (Department). I appear before you to offer an amendment to Engrossed House Bill 1362.

We do support parents being involved in making the primary decisions for their children. The engagement of parents is one of the most important roles in the work we do for the safety and service for families.

We have concerns with page 1, lines 15-17 relating to children in the custody of the Human Service Zone directors. We also have concerns with page 2, lines 1-3 related to a child being placed in the temporary custody of the state. Of note, this section is not consistent with existing child welfare and juvenile court related law. Furthermore, in North Dakota, children are placed into protective custody of Human Service Zone Directors (not the state), Tribal child welfare agencies (not the state), or the Division of Juvenile Services.

In addition, page 2, lines 4-19 seem to be unnecessary as this process is addressed and conflicts with existing applicable child welfare and juvenile court law in chapter 27-20.3 of the North Dakota Century Code. Also, child protective confirmed decisions in chapter 50-25.1 of the North Dakota Century Code around the work on child protection assessments are already subject to

appeals process which are heard by an administrative law judge and can be appealed further to the district court and the North Dakota Supreme Court. Furthermore, page 2, lines 25-26 would conflict the Human Service Zones involvement in Children in Need of Services under chapter 27-20.3 North Dakota Century Code. This chapter of law was created last session to help families and children around student attendance, minors use of tobacco, as well as local and city curfew.

In closing, I am offering an amendment in hopes of clarifying that child welfare and child support laws would not be unintentionally changed by this proposed law.

This concludes my testimony, and I would be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

Page 1, line 15, after "life" insert "unless ordered by the court"

Page 1, line 16, after "is" insert "usually"

Page 2, line 3, after "state" insert "unless ordered by the court"

Page 2, remove lines 4 through 19

Page 2, line 26, after "child" insert "unless ordered by the court"

Renumber accordingly

Testimony Prepared for the
Senate Human Services Committee

March 13, 2023

By: Kim Jacobson, Agassiz Valley Human Service Zone Director

RE: House Bill 1362 – related to parental interest in their child’s upbringing

Chair Lee and members of the Senate Human Services Committee, my name is Kim Jacobson. I serves as the Agassiz Valley Human Service Zone Director, which includes the service area of Traill and Steele Counties. I also serve as President of the North Dakota Human Service Zone Director Association. Please consider my testimony in opposition of HB 1362.

In North Dakota, Human Service Zones, the Division of Juvenile Services, and Tribal child welfare agencies serve as legal custodians to children when the care/custody/control of those children is removed from their parents or legal caregivers. As such, there are occasions when many of the decisions referenced in this proposed bill lie within the role of the agency serving as legal custodian. It appears that this bill, as written, would cause conflict with human service zone’s duty to perform child welfare-related duties and responsibilities provided for in federal law, state law, state policy, and by order of the Court.

When children are in public custody, custodial agency is mandated by federal and state law, policy, and best practice to engage parents in their children’s life and involve parents in decisions on their child’s behalf. However, at times parents are not willing and/or able to work with the agency and/or make decisions that are in their child’s best interest. Public care, custody, and control includes medical, educational, and placement decision-making authority.

I am concerned with page 2, lines 1-3 related to a child being placed temporary custody of the state. Of note, this section is not consistent with existing child welfare and juvenile court related law. Furthermore, in North Dakota, children are placed into protective custody of Human

Service Zone Directors (not the state), Tribal child welfare agencies (not the state), or Department of Juvenile Services.

In addition, I am concerned with page 2, lines 4-19. These sections are not necessary as this process is addressed and conflicts with existing applicable child welfare and juvenile court law.

Furthermore, I am concerned with page 2, lines 20-23. Child welfare work is a very difficult, complicated, and important line of work. I am concerned with how this section may impact our child welfare workforce and courts. Child protective services confirmed decisions are already subject to appeals process which are heard by an administrative law judge. Furthermore, there is a series of court hearings starting as early as 96 hours after the removal of a child from a parental home and ongoing throughout the time the child is placed out of the parental home. These hearings are before district judges or referees. As you can see, there is already a host of due process, legal rights, and proceedings available to parents and their children involved in the child welfare system.

In closing, I understand that the Department has offered amendment that would clarify that child welfare and child support laws would not be unintentionally changed by this proposed law. I recommend to the committee to consider such amendment to protect the critical services provided by our child welfare teams, to prevent any loss of ability to protect vulnerable North Dakota children, and prevent any unintended consequences. Thank you for considering my testimony relating to this bill. I stand for any questions the committee.

Chairperson, Senator Judy Lee, members of the Senate Human Services committee, I am Barry Nelson, here on behalf of the Fargo Human Rights Commission to testify regarding HB 1362, and on behalf of the Commission I urge you to vote do not pass on this bill.

The Fargo Human Rights Commission consists of [eleven volunteer members](#) who are nominated by the Mayor and appointed by the City Commission. Each serves a three-year term. The Human Rights Commissioners represent a broad range of racial, religious, ethnic, social, economic, political and professional groups.

Our mission is: The Fargo Human Rights Commission provides leadership and education in areas of civil rights, to eliminate discrimination against persons because of color, creed, religion, national origin, age, sex, sexual orientation, gender identity, disability, or marital status. It encourages adherence to civil rights through education, conciliation, and mediation. It identifies human and civil rights-related concerns of the public and recommends policies to the board of city commissioners that protect and preserve individual rights.

At its February, 2023 commission meeting, the assembled commission members voted unanimously on a resolution standing in opposition to the numerous bills targeting our Transgender community.

I submit the entire bill as passed, but for brevity today will highlight the following:

Our opposition to these bills is based on two principles: 1) it is harming our kids, and 2) it is restricting our freedoms.

In support of principle number one, I cite the following: National research tells us that 75% of transgender youth feel unsafe at school and are more likely to miss school out of concern for their safety. The North Dakota Youth Risk Behavior Surveillance (YRBS) data from 2021 indicates that suicide ideation and attempts are disproportionately higher for LGBTQ. Evidence is as follows: middle school students who ever seriously considered suicide: straight – 22%; LGB – 65%; Transgender – 74.7%. Middle school students who have ever attempted suicide: straight – 7.5%; LGB – 29.3%; Transgender – 46.3%.

Passing bills that directly or indirectly target LGB and specifically Transgender students only enhance this environment by further targeting them within schools and community.

It is within the overall context of the numbers and breadth of bills being presented in this legislative body, that we stand in opposition to HB 1362.

HB 1362 does not specifically single out LGBTQ individuals. We would support any attempts to support the role of loving, caring and supportive parents in relationship to their children. We further support efforts for parents and teachers to work together as a team making sure that the student is front and center in those efforts. However, bills such as this one serve to undermine the trust between teachers, parents and ultimately students and should be discouraged whenever possible.

The reality which this bill fails to address is when the relationship between students and parents are not supportive in the way that young people will grow up to trust loving relationships. North Dakota Youth Risk Behavior Survey (YRBS) indicates that many LGBTQ students feel unsafe at home (only 10% of LGBTQ youth speak to parents when feeling sad, hopeless, empty or angry); fortunately, many LGBTQ students look to school personnel for support (half of LGBTQ+ students turn to teachers or adults at school if they have a

problem); data from homelessness find that a disproportionate number of homeless youth are LGBTQ who have been kicked out or who have run away from nonsupportive families (20% of Trans high school youth reported being kicked, have run away, or been abandoned).

We are opposed to bills that interject government intervening to take away the ability for parents and teachers to work together as a team. We are opposed to government undermining the trust between teachers and students. Both of these government intrusions will ultimately work to the detriment of our students.

For these reasons we ask for a Do Not Pass on HB 1362.

The resolution as passed by the Fargo Human Rights Commission on February 16, 2023 is included as follows:

Statement regarding the Homophobic and Transphobic Bills before the 2023 North Dakota Legislative Session

Fargo Human Rights Commission

Cody Severson, Chair

February 6, 2023, Passed at the February 16 Commission meeting

On behalf of the City of Fargo's Human Rights Commission, we submit testimony in opposition to the numerous bills targeting members of our Transgender community, including but not limited to HB1111, HB1205, HB 1249, HB1333, HB1489, HB1522, HB1473, HB1254, SB2260, HB1297, HB1474, and SB2231.

We know that the State of North Dakota prides itself on being an inviting and welcoming community and opposes discrimination. We believe these bills individually and collectively are contrary to this goal. These bills negate fairness and equal rights for all people in our state and counters freedom for individuals defining their identity and gender.

Our opposition to these bills is based on two principles: 1) it is harming our kids and 2) it is restricting our freedoms.

1. These bills do harm while at the same time seeks to limit proven effective lifesaving actions.

National research tells us that 75% of transgender youth feel unsafe at school and are more likely to miss school out of concern for their safety. ND local Youth Risk Behavior Surveillance (YRBS) data in 2021 indicates that suicide ideation and attempts are disproportionately higher for LGBTQ+ youth. Evidence is as follows: Middle school students who ever seriously considered suicide: straight – 22%; LGB – 65%; Transgender – 74.7%. Middle school students who have ever attempted suicide: straight – 7.5%; LGB 29.3%; Transgender – 46.3%. Our LGBTQ+ Youth are struggling with extremely high suicidality that is impacted by experiences of

bullying, lack of support, feeling unsafe at home or in school, sexual violence and being put down by parents.

As grim as these statistics, we also know what can positively affect these outcomes: the Trevor Project indicates that when a young LGBTQ youth has one supportive adult, it cuts suicide attempts by 40%. As simple an act as using the young person's preferred pronouns has profound impact as well, reducing the rate of suicidality by as much as 40%.

Passing these bills will have real and lasting harm to our children by further targeting them within schools and community. To further require schools not to do the kinds of interventions and preventions proven effective, borders on child abuse.

Restricts freedoms

In a country that prides itself as one with the most freedoms, in a state that values individuality and personal responsibility, these bills seek to restrict and limit freedoms: of health care providers who have taken a vow of "do no harm", of mental health professionals who are bound by codes of ethics, of educators and school administrators who believe in creating a safe learning environment for all their students. These bills not only attempt to erase our Transgender youth as a group of individuals, they will outlaw the care of nurture from a child's most important person: their parents.

This proposed legislation singles out school-aged students and increases the risks that students are not able to find a safe place in their school and community based on their identity. We believe these bills create additional barriers and causes harm to our youth. To keep and enhance a welcoming and inclusive community in North Dakota, we strongly encourage that these bills not be passed through the legislature.



Testimony in Support of House Bill 1362

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
March 13, 2023

Dear Madam Chair Lee and honorable members of the Senate Human Services Committee,

My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of House Bill 1362 and respectfully request that you render a "DO PASS" on this bill. We also greatly appreciate the bill sponsor incorporating our suggested amendments into the original version of the bill introduced in the House.

The idea behind this bill is that parents are the final arbiters of all aspects of their children's lives. North Dakota Family Alliance Legislative Action believes that the family was instituted by God and was intended as the optimal environment to raise children. To quote Sections 2a and 2b of the bill:

- a. [the] parent possesses a fundamental liberty interest to raise the parent's child without undue government interference in the care, custody, and management of the parent's child and, at all times, retains a vital interest in preventing the irretrievable destruction of family life
- b. It is in the best interest and welfare of a child to be raised under the care and supervision of the child's parents.

We wholeheartedly agree. It is sad that we as a society even need to specify that parents are the authority when it comes to their own children. We are not oblivious to single-parent families or relatives raising children – they are a significant portion of all U.S. families. Actually, this bill ensures that they, who are often marginalized or discounted because of their family structure, are granted the same liberties as traditional two-person families. You might also note that the bill does not exclude same-sex families. This bill does not play favorites.

We appreciate the sponsor's inclusion of bill sections that address parents who are unfit for their responsibilities. There are limits to a parent's rights and this is acknowledged.

1515 Burnt Boat Dr., Suite C-148, Bismarck, ND 58503
mark@Ndfamilyalliance.org
701-355-6425
www.ndfamilyalliance.org

As I stated, North Dakota Family Alliance Legislative Action supports HB 1362 and requests that the committee render a "DO PASS" on the bill. Thank you for allowing us to submit testimony on this bill and please reach out to us with any questions you may have.

Sincerely

A handwritten signature in black ink that reads "Mark Jorritsma". The signature is written in a cursive style with a large, stylized initial "M" and "J".

Mark Jorritsma
Executive Director

Dear Legislators and Committee Members,

My testimony is to ask that you give this bill a Do Not Pass.

I am a public school educator and a 29 year resident of North Dakota. This bill actively harms members of community.

Thank you for your time and consideration.

Sincerely,

Christopher Brown

Senate Human Services Committee
Testimony of Patricia A. Leno, District 30
Regarding: HB 1362
March 13, 2023

This bill is a timely one to address the issue of empowering parents when we are seeing parental concerns in public school board meetings being diminished and ignored. When a parent comes to a board meeting with concerns and may seem angry, their concerns still need to be valued. In some cases parents' viewpoints and concerns are not being considered by a school board.

An example of this is recently, in the state of Georgia, a parent took on an issue at a school board meeting which lead eventually to a lawsuit. All the parent wanted to do is to present their concerns about the type of literature available to their child. This parent was reading a book from their child's school library, and her reading this book was stopped by the school board because profanity wasn't allowed in school board meetings! Apparently, because this issue wasn't addressed by this school board, she came back, reading these profane books again, which lead to her removal from participating in the meetings. Other moms were finding the same type of books in their school districts nearby, so these moms formed a group called "Mama Bears." Two moms eventually filed a lawsuit concerning their freedom of speech being denied, and they won \$107,500 of their legal fees to be paid, along with a nominal damage of under \$18.00, and these explicit books were removed from the library. So it wasn't about the money. These parents just wanted to be heard.

Isn't it a parents' job to protect their children and the elected school board's job to respond to the parents' concerns? Apparently not in this case. To me, it would've been really simple to take care of this problem. If the book is so very graphic and shocking, simply stop the parent from reading it, express your concern, ask if you can look at the book later, and meet with her. Of course, common sense would be to go to the library and check the collection of these types of books and have them removed. So, did the school board think this parent's concerns were valuable? NO! Then, that is a really big problem.

When a parent is viewed as more knowledgeable about their child and knowing what is best for them by a teacher, administrator, or a school board, this builds bridges to ensure the school and parent will work together to provide the best opportunities for the parents' child. This is very valuable and constructive. Seeing a parent as a problem and not valuing their opinions and concerns is dangerous. School boards are made of people with many different viewpoints. Not everyone has the same values. Nevertheless, parents are the primary stakeholders, and should be valued for their input into the education of their child.

We need to pass HB1362 to make sure this type of school board action against parents doesn't happen here. Thank you for listening.

Resources: ABC6OnYourSide.com Article: "Georgia school district forced to pay more than 100K after censoring parents at board meeting" by Kristina Wotrobski, February 23, 2023

Forsythnews.com Article: "School district reaches settlement with Mama Bears in free speech lawsuit." By Sabrina Kerns January, 13, 2023

Dear Chair Lee and the members of the Senate Human Service Committee, I urge a “Do Not Pass” on HB 1362.

The most helpful thing for me to understand this bill was listening to Representative Christensen introduce it and take questions during the House hearing. He explains this bill comes from Utah and that is the reason for so much inconsistency in language and definitions. His opening testimony to introduce this bill came with instructions for the committee to fix it.

When reviewing the testimony as part of analyzing written testimony, I saw very little consistency across all testimony. Some people saw this as a parental rights bill. Others as a preemptive bill to stop unexplained future harm. Some cited this bill as important to protect homeschooling, to stop transgender youth, or simply to stop the political left. A moving piece of testimony in favor of this bill talked about their stake as a parent and their willingness to die for their kids.

That testimony actually stuck with me, more than most others this session. I have no problems with parents who are truly loving and nurturing for their kids. I want those parents to have every opportunity to shine. I, however, don't see what restrictions they currently have that would be solved by this bill. Further, the language within this bill gives me pause when I think about the abuse children face.

According to the [Youth Risk Behavior Survey](#), about 1.5% of our total youth are in homes where their parents are often violent to each other. 46% of total high school youth reported their parents or other adults in their home swore at them, insulted them, or put them down one or more times in the last twelve months before the survey. 2.4% Ran away, were kicked out, or were abandoned by their parents.

While those numbers may seem low, they represent hundreds and sometimes thousands of kids across our state. When we think about parental rights we often think about parents rights as opposed to government rights, but kids are the primary stakeholder in their own life.

Samantha Field's from the Coalition for Responsible Home Education talked this legislative session about the potential harm that becomes possible when parents have near absolute authority over their children.

She speaks about not being given a basic education or progressing past the eighth grade reading level. She speaks about the harm of fundamental rights being given to parents, because it makes the fundamental rights of youth virtually meaningless.

I believe that everyone who has submitted testimony, the legislators who drafted this bill, and those who voted to pass it in the House are likely good parents or know only good parents. But I feel they may not have any direct or indirect experience with child abuse. Bills like the one purpose here terrify me, because when we empower all parents, we also empower abusive parents.

And abuse is not always easy to see. It's difficult to say where reasonable discipline ends and abuse begins, but I absolutely don't want parents testing that line. I don't want parents to feel so empowered as to treat their kids as their property. And I don't want child protective services to be overburdened in its role to protect youth by proving it isn't violating what are several very vague line items around the authority parents enjoy.

I've talked to many human service zone officers in my work, who do govern intervention when parents may be deemed to be unfit or unsafe. I have been told that every effort happens to keep parents and families together. Not even because that's the best choice, but because the alternative isn't always better. The truth is we have a lot of kids who fall through the cracks in our state, who get lost to some really terrible things, and parental rights are not what they need.

When you consider and weigh the intent of this bill, please consider the youth who are impacted by it and weigh that against the power we are giving all parents with it. Please also keep in mind that while legislators and lawmakers may know what this bill allows if passed, laypeople may make incorrect assumptions about their rights and privileges with it.

Thank you for your time, consideration, and service to our state.
 Faye Seidler

Testimony Analysis

In Favor

1. [Protect Family Values](#)
2. [Fear around homeschooling and transgender youth](#)
3. [Fear of political agenda](#)
4. [Parents would die for their kids](#)

In Opposition

1. [Due Process Clause of the 14th Amendment already accomplish this bill](#)

Written Testimony	In Favor	In Opposition
Word Count	4500	600
Citizen	14	0
Stakeholder/Qualified	2	1
Politician/lobbyist	2	0
Total 9	18	1
	94.74%	5.26%

In person testimony Mins	21	8
Total Minutes 29	79.31%	17.24%

Committee Vote	Do pass	Don't pass
Total 14	12	2
	85.71%	14.29%

Floor Vote	Yay	Nay
Total 92	50	42

March 13, 2024

Chairman Lee and members of the Senate Human Services Committee,

My name is Rozanna Larson, I am the State's Attorney for Ward County. I am writing to you in opposition of HB 1360.

First, the Constitution, ND Supreme Court, and the US Supreme Court have already addressed parental rights being paramount. It would seem that additional statutes are unnecessary and redundant. However, that being said, there are times when the government does find it necessary to intervene in the best interests of the child(ren).

I would remind the committee that just last session legislature revamped the Juvenile Code completely to come into compliance with Federal law. See NDCC Chapters 27.2 through 27.4. It would appear HB 1360 would supersede the process and procedures in those chapters.

When children are removed from their parents, NDCC Chapters 27.2 through 27.4 and the North Dakota Rules of Juvenile Procedure already provide for the parents' right to due process. These chapters already address the threshold and burden of keeping children in custody (foster care), by clear and convincing evidence. When a child is placed into the legal custody of the Human Service Zone, the Zone becomes the decision-maker of the child. This bill would seem to supersede that authority and ability to provide for the best interests of the child.

I'm also concerned about subsection 3 of the bill, "If a parent's fundamental rights protected by this section are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against a governmental entity. The prevailing party in an action filed under this section is entitled to reasonable attorney's fees and costs." The bill does not address "governmental agency." In cases that involve Human Service Zones, is it the "State" – DHS? The Zone workers are under DHS, but paid through counties. Some Zones are made of up of more than one County. Does this potential liability then trigger that each removal will/should be noticed to NDIRF for potential suit and coverage? Does this mean then that NDIRF should be involved in all foster care matters and have a seat at the table during these proceedings to protect the interests of the County? I would also point out, that when a child is removed and placed in Foster Care, the parents, when determined to be indigent, receive court-appointed attorneys.

In closing, I would urge you to DO NOT PASS this bill. There are already statutes in place that protect the parents' interests. Child welfare is a vital interest to the State as well as the parents. There are already statutes, and constitutional protections available. There are also administrative procedures available to parents when there are adverse findings.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Cole Christensen

District 24
P.O. Box 176
Rogers, ND 58479-0176
C: 701-659-1776
colechristensen@nd.gov

COMMITTEES:

Judiciary
Transportation

3/13/2023

Madam Chair and members of the committee,

My name is Cole Christensen, Representative from District 24.
I am here to testify in support of HB 1362.

This bill is a continuation of the resolution that was unanimously passed last special session. That resolution HCR 3049 declared that Parents are the Primary stakeholders over their child's future. This bill solidifies that and protects the integrity of the family unit and recognizes the fundamental liberty of a parent to conceive, raise, manage, train, educate, and reasonably discipline their child.

The other aspect of this bill protects children from abuse and neglect, and the states retains a compelling interest in investigating, prosecuting, and punishing a violation. The state is secondary and supportive to the primary role of the parent, and the legislative assembly is the primary stakeholder in the establishment, maintenance, and success of the states education system.

This bill re-affirms what we believe as North Dakotans, that the family is the backbone to our society. Lets be a champion for parents, and I would ask that you give a do-pass recommendation.

I will stand for questions.

23.0345.02002

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1362

Introduced by

Representatives Christensen, Bosch, Heilman, Kasper, Koppelman, Lefor, Meier, M. Ruby
Senators Boehm, Larsen, Paulson, Wobbema

1 A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota
2 Century Code, relating to recognizing a parent's interest in their child's upbringing.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 14-09 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Parent's interest in child's upbringing.**

7 1. As used in this section:

8 a. "Parent" means parent or legal guardian not including a school or other institution
9 servicing in loco parentis; and

10 b. "Stakeholder" means a person that has a vested interest in the success of the
11 organization or system.

12 2. ~~Notwithstanding any other provision of law:~~

13 ~~a. A parent possesses a fundamental liberty interest in the care, custody, and~~
14 ~~management of the parent's child and, at all times, retains a vital interest in~~
15 ~~preventing the irretrievable destruction of family life.~~

16 ~~b. It is in the best interest and welfare of a child to be raised under the care and~~
17 ~~supervision of the child's parents.~~

18 ~~c. A child's need for a normal family life in a permanent home and for positive,~~
19 ~~nurturing family relationships usually is best met by the child's parents.~~

20 ~~d. The integrity of the family unit and the right of a parent to conceive, raise,~~
21 ~~manage, train, educate, and reasonably discipline the parent's child should be~~
22 ~~constitutionally protected.~~

Sixty-eighth
Legislative Assembly

- 1 e. The right of a fit, competent parent to raise the parent's child without undue
2 government interference is a fundamental liberty interest and is fundamental
3 public policy of this state.
- 4 f. The fundamental liberty interest of a parent is recognized, protected, and does
5 not cease to exist ~~simply because a parent may fail to be a model parent or~~
6 because the parent's child is placed in the temporary custody of the state.
- 7 g. ~~There is a rebuttable presumption that a parent's decisions are in the parent's~~
8 ~~child's best interests.~~
- 9 ~~h.~~ A fundamentally fair process must be provided to a parent if the state moves to
10 challenge or interfere with parental rights.
- 11 (1) A government entity must support any actions or allegations made in
12 opposition to the rights and desires of a parent regarding the parent's child
13 by sufficient evidence to satisfy a parent's constitutional entitlement to
14 heightened protection against government interference with the parent's
15 fundamental rights and liberty interests and ~~concomitantly,~~ the right of the
16 child to be reared by the child's parent.
- 17 (2) Before adjudication of unfitness, government action in relation to a parent
18 and the parent's child may not exceed the least restrictive means of
19 alternatives available to accomplish a compelling state interest.
- 20 (3) Until the state proves parental unfitness, and the child suffers, or is
21 substantially likely to suffer, serious detriment as a result, the child and the
22 child's parent share a vital interest in preventing erroneous termination of
23 their relationship and the state may not presume a child and the child's
24 parent are adversaries.
- 25 3. If a parent's fundamental rights protected by this section are violated, a parent may
26 assert that violation as a claim or defense in a judicial proceeding and may obtain
27 appropriate relief against a governmental entity. The prevailing party in an action filed
28 under this section is entitled to reasonable attorney's fees and costs.
- 29 4. It is the public policy of the state that:
- 30 a. A parent retains the fundamental right and duty to exercise primary control over
31 the care, supervision, upbringing, and education of the parent's child;

Sixty-eighth
Legislative Assembly

- 1 b. A child has the right to protection from abuse and neglect; and
2 c. The state retains a compelling interest in investigating, prosecuting, and
3 punishing abuse and neglect.
4 4.5. The state's education systems are supportive and secondary to the primary role of a
5 parent. The legislative assembly is the primary stakeholder in the establishment,
6 maintenance, and success of the state's education systems. The department of public
7 instruction is the primary stakeholder in the state's public education system. The board
8 of a school district is a secondary stakeholder in the state's public education system.

Wolf, Sheldon

From: Lee, Judy E.
Sent: Saturday, March 18, 2023 11:33 PM
To: -Grp-NDLA Senate Human Services; Wolf, Sheldon; Lahr, Pat; NDLA, Intern 02 - Pouliot, Lindsey
Subject: FW: 1362

Info on 1362

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@ndlegis.gov

From: Baesler, Kirsten K. <kbaesler@nd.gov>
Sent: Tuesday, March 14, 2023 7:45 AM
To: Lee, Judy E. <jlee@ndlegis.gov>
Subject: 1362

Good morning, Senator Lee.
It has been brought to my attention that amendments have been proposed to HB 1362 by NDCEL. These same amendments were brought forward to the House and Majority Leader Lefor asked for some additional information.
NDCEL proposes language changes to p. 3, #5, lines 1-3.

Here is what I shared with Representative Lefor:

Majority Leader Lefor,.

I am not okay with taking out the language. It is not a good idea.

Article V Section 2 of the ND Constitution very clearly and explicitly identifies the Superintendent of Public Instruction as the constitutional officer overseeing public education in our state, acting only through the authority prescribed by law through the legislative assembly.

Article VIII states unequivocally that the legislative assembly "shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control."

I might even suggest that the first paragraph be reworded to affirm the legislative assembly's authority, but don't take it out. Taking it out and only adding those words is not accurate or factual. It will twist the clear intention of ND's State Constitution.

I don't have the right expertise to comment on the legal Latin language. Still, I would suggest that this be reviewed by the Attorney General or someone in Legislative Council who has a law degree and can tell if that is a factual interpretation.

For your reference to what I changed is pasted below.

~~“The department of public instruction~~ **legislative assembly** is the primary stakeholder in the state's public education system. ~~The board of a school district~~ **superintendent of public instruction** is a secondary stakeholder in the state's public education system, **acting only on authority prescribed by the legislative assembly.**

~~“The key stakeholder~~ **An important contributor** in the execution of the will of the legislative assembly is the public-school systems, including teachers, administrators, school boards, and all school staff in partnership with parents.”

Adding another section. **I would verify with AG office or legislative counsel.**

Fundamental liberty is “implicit in the concept of ordered liberty” that neither liberty nor justice would exist if they were sacrificed. In a public-school setting when parents are not physically present, fundamentals of in loco parentis are required. The term “in loco parentis” is a Latin phrase that translates as “in place of a parent” or “instead of a parent” and refers to how schools teachers and school administrators are expected to act with reference to students and other minors. In other words, the employees of a school are charged by the parents of students to act on their behalf while the students are there.



Kirsten Baesler
State Superintendent
600 E. Boulevard Ave., Dept. 201
Bismarck, ND 58505-0440
(701) 328-4570
kbaesler@nd.gov
www.nd.gov/dpi

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

Page 1, line 12, replace "fundamental liberty interest" with "right"

Page 1, line 14, remove ", at all times,"

Page 1, line 15, after "life" insert ", unless ordered by the court"

Page 1, line 16, after "is" insert "usually"

Page 1, remove lines 20 through 22

Page 2, line 1, replace "fundamental liberty interest" with "right"

Page 2, line 3, after "state" insert ", unless ordered by the court"

Page 2, remove lines 1 through 19 (if you remove lines 1-3, you do not need the two amendments above. If you want to keep lines 1-3, we would still want lines 4-19 removed. We would prefer lines 1 through 19 are removed).

Page 2, line 20, remove "fundamental"

Page 2, line 25, remove "fundamental"

Page 2, line 26, after "child" insert ", unless ordered by the court"

Page 2, line 28, after "in" insert "assessing,"

Page 2, after line 29, insert:

"d. The health and welfare of a child is protected."

Page 3, line 2, remove "The legislative assembly is the primary stakeholder in the establishment,"

Page 3, remove line 3

Renumber accordingly

23.0345.03001
Title.

Prepared by the Legislative Council staff for
Senator Hogan
March 30, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

Page 1, line 1, replace "a" with "two"

Page 1, line 1, replace "section" with "sections"

Page 1, line 2, after "upbringing" insert "and the rights of children"

Page 3, after line 3, insert:

"**SECTION 2.** A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Children's rights.

Each child has the right to:

1. Be free from all forms of physical, psychological, and sexual abuse and neglect;
2. Reside in a safe and healthy environment;
3. Receive appropriate medical treatment, including behavioral health treatment;
4. Develop a healthy attachment to a parent, legal guardian, or caregiver;
5. Voice opinions related to matters that affect the child, including representation on age-appropriate youth councils or other decisionmaking bodies;
6. Consideration from parents, elected officials, and other adults in decisionmaking that impacts the care or communities of children;
7. Consideration of a child's best interest in decisions that affect the child, including legal representation and a child advocate in legal proceedings;
8. Be provided quality services, including trauma-informed, culturally appropriate, and nondiscriminatory approaches and accommodations;
9. Access educational services and support to accommodate the child's individual educational needs;
10. Receive age-appropriate education and be heard regarding the child's educational needs;
11. Access life skills training; and
12. Protection from unfair and unsafe labor practices."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

Page 1, line 7, replace the underscored colon with “.a”

Page 1, line 8, replace “a. “Parent”” with ““parent””

Page 1, line 9, remove “; and”

Page 1, remove line 10

Page 1, line 11, remove “organization or system”

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace “4.” with “2.”

Page 2, line 25, replace “A” with “Unless ordered by the court, a”

Page 2, line 25, remove “fundamental”

Page 2, line 28, after “in” insert “assessing.”

Page 2, line 28, after “prosecuting” insert “. preventing”

Page 2, line 29, replace “punishing” with “addressing”

Page 3, remove lines 1 through 3

Re-number accordingly

A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to recognizing a parent's interest in their child's upbringing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Parent's interest in child's upbringing.

1. As used in this section, a "parent" means parent or legal guardian not including a school or other institution serving in loco parentis.
2. It is the public policy of the state that:
 - a. Unless order by the court, a parent retains the right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;
 - b. A child has the right to protection from abuse and neglect; and
 - c. The state retains a compelling interest in assessing, investigating, prosecuting, preventing, and addressing abuse and neglect.

23.0345.03002
Title.04000

Adopted by the Senate Human Services
Committee

April 4, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1362

Page 1, line 7, remove the underscored colon

Page 1, line 8, replace "a. "Parent"" with ", a "parent""

Page 1, line 9, remove ": and"

Page 1, remove line 10

Page 1, line 11, remove "organization or system"

Page 1, remove lines 12 through 22

Page 2, remove lines 1 through 23

Page 2, line 24, replace "4." with "2."

Page 2, line 25, remove "fundamental"

Page 2, line 28, after "in" insert "preventing, assessing,"

Page 2, line 28, after the first underscored comma insert "addressing, and"

Page 2, line 28, remove ", and"

Page 2, line 29, remove "punishing"

Page 3, remove lines 1 through 3

Renumber accordingly

As a parent in North Dakota, I am in favor of HB 1362.