

**2023 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1298**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1298  
1/18/2023

Relating to proof of liability insurance for early childhood programs; and to provide an effective date.
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Vice Chairman Ostlie called to order 2:30 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner. Member absent; Representative Warrey.

### **Discussion Topics:**

- Liability insurance
- legal requirement
- Civil court
- Insurance lapse
- Cost and availability

### **In favor:**

Representative Scott Louser, District 5, Prime bill sponsor (no written testimony)  
Lynn Reisenauer, Grayson's mother (no written testimony)

### **Opposed:**

Michelle Roeszler, Licensed early childhood program #14100

### **Neutral:**

Verla Jung, Community Engagement Coordinator of Child Care Aware of ND #13956

### **Additional written testimony:**

Allison Lillemoen, Group daycare provider #13940  
Beth Widmer, Licensed childcare provider #13464  
Sue Brady, Licensed group on childcare provider #13777  
Shanna Brady, Childcare provider #13859  
Kathy Busche, Childcare provider #14073  
Becca Koeplin, Licensed group childcare provider #14113

Chairman Louser adjourned the meeting 2:59 PM

*Diane Lillis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Industry, Business and Labor Committee**  
Room JW327C, State Capitol

HB 1298  
1/23/2023

Relating to proof of liability insurance for early childhood programs; and to provide an effective date.
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Chairman Louser called to order 2:55 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

**Discussion Topics:**

- Insurance premium costs
- Licensed daycare business insurance
- General liability

Representative Koppelman will work on an amendment.

Chairman Louser adjourned the meeting 3:21 PM

*Diane Lillis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1298  
1/30/2023

Relating to proof of liability insurance for early childhood programs; and to provide an effective date.
--

Chairman Louser called to order 2:57 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

### Discussion Topics:

- Notification upon cancelation
- Minimum property insurance
- Application clause
- Coverage timeline 4-6 weeks
- Current providers
- Insurance requirement
- Daycare costs

Representative Koppelman presented an amendment, #17963 and moved to adopt the amendment 23.0683.01001

Representative Wagner seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion approved 14-0-0

Representative Schauer moved a do pass as amended.  
Representative Wagner seconded.

Roll call votes:

<b>Representatives</b>	<b>Vote</b>
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 14-0-0

Representative Koppelman will carry the bill.

Chairman Louser adjourned the meeting 3:10 PM

*Diane Lillis, Committee Clerk*

24 1-31-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1298

Page 1, line 2, after the semicolon insert "to provide for application;"

Page 1, line 9, replace "proof" with "a copy of a certificate"

Page 1, line 10, replace "is" with "naming the department as the certificate holder,"

Page 1, line 11, remove "and property damage"

Page 1, line 12, remove "An owner or operator of an early childhood program shall notify the department not"

Page 1, line 13, replace "later than ten days after cancellation or termination of the" with "The"

Page 1, line 13, after "policy" insert "must provide a minimum of three hundred thousand dollars per occurrence"

Page 1, after line 13, insert:

**"SECTION 2. APPLICATION.** The owner or operator of an early childhood program with an existing license under chapter 50-11.1 as of January 1, 2024, shall provide the department of health and human services proof of liability insurance as required under section 1 of this Act within ten days of the effective date of this Act."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1298: Industry, Business and Labor Committee (Rep. Louser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1298 was placed on the Sixth order on the calendar.

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Page 1, line 9, replace "proof" with "a copy of a certificate"

Page 1, line 10, replace "is" with "naming the department as the certificate holder."

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Renumber accordingly

**TESTIMONY**

**HB 1298**



To whom it may Concern, I as a licensed provider in North Dakota for 11.5 years am concerned on HB 1298. I carried liability insurance up until May 2020. At that time my insurance company stopped carrying it. My premium was \$350 my agent could only find 1 company that would offer it and the premium raised to \$1200 annually. The coverage was terrible and was not cost effective. For new providers starting out it would a huge expense that would most likely deter a lot new providers from starting up. The need in North Dakota for childcare providers is huge and I would hate to see more not start up due to needing to carry liability insurance. Respectfully submitted, Beth Widmer

January 16, 2023

RE: HB 1298

To Whom it may concern,

My name is Sue Brady, currently I am a licensed group home childcare provider in Bismarck. I have been doing childcare for 37 years. I am a Step 3 on the QRIS rating scale and am completing Step 4 at this time. During my thirty-seven years as a childcare provider, I have held childcare liability insurance. I am not opposed to having liability insurance, I am opposed to being mandated to have it.

Childcare liability insurance is not attainable for many providers through no fault of their own. Although I have had this insurance, it is not easy to get and it is expensive. I have been denied many times because of limitations put forth by the insurance companies. I have been denied insurance because I didn't have a fence, which is not required for a license according to ND rules and regulations. I was denied insurance because I was licensed for 16 children at the time, which was too many children to meet their requirements. Having a dog or cat was also another reason I was denied insurance. I was denied home owners insurance from multiple companies because they do not allow child care in the home. This has forced me to find an independent company, at a much higher rate. In addition to not being able to get insurance, twice I have had my policy cancelled, not because of claims, but because they no longer want the liability of providing insurance for in home childcares. This has then led me to scramble to find yet another company.

My concern is, if this bill becomes mandatory, what type of sanctions will be given if we are suddenly out of insurance, at no fault of our own or because it is so expensive, we can't afford it? Will our license be revoked or suspended? Will we have monetary penalties? This issue was not addressed in the bill proposal.

As with most expenses, every year my childcare liability insurance premium goes up. As a business owner, that cost is getting passed on to my clients. It won't be long until the expenses of having a childcare will exceed the income needed to stay in business.

Mandating a childcare to have liability insurance will add another expense that can push many providers to leave the field. I respectfully ask that this bill be vetoed in this committee. Please don't mandate something that is unattainable for many providers, or hard to get from no fault of their own. Leave this decision up to the business owner. Let them take the risk and responsibility to have or not to have childcare liability insurance.

Sincerely,

Sue Brady, Brady's Family Childcare

January 11, 2023

RE: HB1298

To Whom It May Concern:

My name is Shanna Brady and I have been a childcare provider for 17 years in Bismarck, ND. I hold a group license for 12 children. I am writing to show my opposition to HB1298. I have personally held business liability insurance the entire time I have been a childcare provider but it has not been without its hardships. I am currently covered under one of the only companies that will write a policy for me. My fear is that if this company decides to no longer cover childcare providers, I am left with no company to write a policy for me.

As it stands now, it is tough to obtain homeowners insurance with a childcare in the home. My homeowner's insurance would drop about \$1,000 a year if I could go with just any homeowner insurance. My current homeowner's insurance has a stipulation in place that says they will only write a policy for homeowners if they hold business liability insurance.

I cannot add a rider to my homeowner insurance because of the number of children I am licensed for. Company 1 wouldn't write a policy for me because I don't have a second adult with 12 children. Legally I do not need a helper with 12 children. Company 2 wouldn't write a policy for me because I have no fence around my property. I live in rural Bismarck where a fence is not legally required. To put a fence around 1.5 acres of property would be a huge financial burden. Company 3 wouldn't write a policy for me because I take children with food allergies. At the time of contact with them I had a child with celiac disease. They considered that a disability and therefore deemed me ineligible. My option would be to not take children with disabilities which goes against everything. Other policies I looked at, but didn't apply for, will not cover me if I have dogs. I currently have 3 dogs who are part of my childcare program.

Having liability insurance should be a business decision made by the owner not the state unless the state is going to write the policy for us and pay for the policy. If a childcare provider decides not to have liability insurance that is the risk they take. In my 17 years of having liability insurance, I have not had 1 claim and have paid \$500-\$800 annually for a policy. Please re-think this bill and leave the decision where it belongs, in the business owner's hands.

Thank you,

Shanna Brady

**House Bill 1298**  
**Industry, Business, and Labor Committee**  
**Representative Louser, Chairman**  
**Representative Ostlie, Vice-Chair**  
**January 18, 2023**

Chairman Louser, Vice-Chair Ostlie, and members of the House Industry, Business, and Labor Committee:

My name is Allison Lillemoen, and I provide group daycare for families in Grand Forks County. I apologize; I cannot participate in person or via remote testimony today as I cannot close my doors as many families rely on my business to provide childcare. Please accept my written testimony as sufficient.

I am providing testimony in opposition to House Bill 1298.

If House Bill 1298 were passed, it would significantly affect my daycare and others providing care across North Dakota. I have reached out to my insurance company for a quote on my yearly premium if this bill were to pass.

My yearly premium would increase by over \$2,000.00 a year. This will over double my annual premium. To accommodate this added item to my insurance policy and continue providing care, I would need to increase my current rate by \$18.00 a week per child.

\$18.00 a week per child sounds insignificant. Over a year, this would cost our families an additional \$936.00 per child. Families are already struggling to pay the current rates consistent across the entire state (\$150-\$225/week/per child), which will put additional unnecessary financial stress on them.

Due to the cost-of-living increase over the last year, providers have already had to increase rates substantially to afford and continue to provide care for families.

Another concern I have is what is the fiscal impact of the childcare assistance vouchers that many individuals in our state receive. Will they adjust their assistance voucher to meet this financial change?

Please vote no on House Bill 1298 as this bill would just be another added hardship financially for the providers who must pay for the premium upfront, the parents who pay weekly for childcare, and the state that provides childcare assistance vouchers to those that qualify.

This concludes my testimony. Since I cannot testify in person – please do not hesitate to email me with any questions at [alimarie\\_2@hotmail.com](mailto:alimarie_2@hotmail.com).

Thank you,

Allison Lillemon  
[Alimarie\\_2@hotmail.com](mailto:Alimarie_2@hotmail.com)  
Grand Forks County Child Care Provider

**Testimony**  
**68<sup>th</sup> Legislative Assembly**  
**House Education Committee**  
**House Bill 1298**  
**January 18, 2023**  
**Submitted by: Child Care Aware of ND**

Chairman Louser and members of the House Industry, Business and Labor Committee, thank you for the opportunity to provide informational testimony on HB1298. My name is Verla Jung and I live in Jamestown. I am a Start-up and Community Engagement Coordinator for Child Care Aware of North Dakota. Child Care Aware of North Dakota is a nonprofit organization that receives Child Care Development Funds (CCDF) contracted from the ND Department of Health and Human Services Early Childhood Section to provide support to child care providers and programs in the state in the areas of training, coaching and start-up assistance.

I work with new providers and centers who are interested in starting a child care business or organization. We provide guidance and assistance on everything from licensing guidelines to staff handbooks, business plans, etc. and work with providers through the process of starting their program.

Today, I am presenting informational testimony on House Bill No. 1298 relating to proof of liability insurance for early childhood programs. When working with child care programs, we strongly encourage providers to have adequate business liability coverage to protect them against the risks associated with their business. Parents who sign a note indicating that they understand a program does not have this insurance can still sue the program if there is an accident. Anecdotally, we have seen that liability waivers that parents sign promising not to sue do not stand in court and the provider is still liable.

In reviewing the data CCA has collected, ND has 1199 licensed child care programs. Of that number, 748 have stated they carry liability insurance. A total of 164 are centers, 39 preschools and 29 are school-age programs, all of which are required to have liability insurance as required administrative rules. There are an additional 516 licensed as family, group in a home and group in a facility voluntarily participating, making slightly more than 62% of the 1199 programs holding liability insurance.

Our organization wanted to provide testimony today to inform the Committee about some of the barriers that prevent family, group in a home and group in a facility licensed programs from obtaining liability insurance. Speaking with insurance professionals, we found it is becoming rare for a homeowners policy would cover more than 5 children so these providers would need to purchase separate liability insurance to have coverage. Some commercial companies have gotten out of child care insurance due to the risks involved. Options are available but at a higher price. In talking with some insurance companies, we've found that coverage running around \$1,200-\$1,750 annually for home providers. Group policies can run from \$1,100 to \$2,100 with one provider from western North Dakota reported that their liability insurance for group-30 programs recently doubled to \$4,000.

While the investment in liability insurance helps safeguard against the potential for higher costs if a child is injured and to protect against potential litigation expenses, most child care providers in ND have an average of 4% profit at the very best with that number shrinking with workforce and inflation expenses.

There is concern in the field that additional requirements and expenses without financial support will cause more providers to close and further exacerbate the child care crisis in the state.

As a support for providers across the state Child Care Aware of ND wanted to share this information for consideration.

Chairman Louser, Vice-Chair Ostlie, and members of the House Industry, Business, and Labor Committee:

My name is Kathy Busche. I own and operate two childcare programs in Hazen. One program is a group facility licensed for 30. I own the facility and operate a 0-5 program with a current enrollment of 33 children. The second program is my home where I operate a school age program with a license for 30 with 25 children enrolled. The facility is Step 2 in Bright and Early QRIS. Our home program is Step 1 QRIS. I have been operating my business out of my home since 2007 and purchased and renovated the facility opening the second location in January 2022. I have a bachelor's degree in Early Childhood Education from MSUM and providing quality childcare is my passion.

I am sorry I can not be present to testify in person, but unfortunately I do not have the back up staff required to be away from our programs at the present time.

I am writing today in opposition of HB 1298. I am not in opposition to having a liability policy for child care programs, I am in opposition of the State requiring family and group programs to carry a policy. I currently hold a liability policy on my facility. As of February 2023 when my policy renews I will be paying \$5,000 for both commercial building insurance and business liability insurance. I believe it is important to have both these policies, but the it is becoming more and more difficult to find an underwriter to offer programs such as mine insurance. I have been dropped by two insurance companies in the last 5 years and have struggled to find a company willing to write a policy for my unique program. Because the insurance is so expensive I have not acquired an insurance policy for my school age program in my home. The one policy I currently hold is approximately 5% of my gross income. This is a huge cost and I fear that if the state of North Dakota requires family and group providers to carry insurance we are going to see another huge increase in premiums. The cost of this insurance will be detrimental to child care. Many new programs simply can't afford the premiums.

My second concern with HB 1298 is that it doesn't have a requirement in regards to the type of insurance or amount of coverage a program is required to carry. I have spoken to many providers throughout the state in order to compare types of liability insurance and amount of coverage providers carry and it isn't enough. Often providers think they carry insurance for certain types of incidents and they find out after an incident that their policy has an exclusion or doesn't have the amount of coverage necessary. Requiring a program to carry insurance without guidance into the type of insurance or amount of coverage is not the answer.

Carrying insurance needs to be a business owners' decision and although I fully agree that as a professional business childcare providers should carry insurance it is extremely hard to find and expensive to obtain. For these reasons I oppose HB 1298.

I would be more than happy to answer any questions the committee might have.

Kathy Busche

701-748-2084

kathybusche@gmail.com

Chair Louser and members of the committee,

I am writing today in regard to HB1298 proposing to require liability insurance for licensed early childhood programs. As an early childhood program owner from 2005-2020 and in my continued work with early childhood programs in the state I am stand in opposition of this bill. It is my belief that adding a liability insurance policy to the overhead of a business should be at the discretion of the business owner. While it is strongly encouraged that all business owners carry liability insurance to protect them in the event of an adverse situation in their business, to have this requirement codified will most certainly impact the availability of childcare in the state negatively. In my communications with childcare owners across the state it is becoming increasingly difficult to find an underwriter who will offer a policy for a childcare program due to the high risk of the business. More and more underwriters are dropping childcare liability policies from their offerings. In a time when state agencies and legislators are working to expand the availability of childcare in our state this bill could produce the opposite effect.

I also wanted to offer a little background on the content of this bill. An identical bill was introduced by Senator Vedaa during the 2019 legislative session (SB 2163). The bill came out of the Senate Human Services committee with a Do Pass recommendation and passed in the Senate with a 47/0/0 vote.

The bill came out of the House Human Services committee with a Do Not Pass recommendation in a split decision with comments during the committee hearing and work session that liability insurance wouldn't have solved the issues with the event that triggered the bill and that liability insurance would be cost prohibitive to providers. That bill failed in the House with a 18/73/3 vote.

After reviewing the records from 2019 I found that the sponsors of HB 1298 voted in the following way on their respective floor votes:

Representative Louser	No
Representative M. Ruby	No
Representative Thomas	--
Representative Weisz	No
Senator Vedaa	Yes

I ask the 2023 Industry, Business and Labor committee members and the sponsors of this bill what has changed since 2019? In my view, what has continued to change is the availability and affordability of liability insurance for home-based early childhood programs. In addition there has been a reduction of availability and affordability of childcare across the country, including in North Dakota. Even home-based care settings have not been immune to increased food costs and increased heating/cooling costs. Even without the cost of staff and with the stabilization grants through the past two years programs have had to raise their rates, in some cases significantly. Adding the high cost of liability insurance will only increase their operating costs which in turn will increase parent fees.

My final comment on this bill is this: if the committee determines that a requirement of liability insurance is important enough to add it to home-based early childhood programs it should make a recommendation to DHHS to add it to the administrative code which is where it is codified for center based programs as well as preschool and school age programs. Adding this require to NDCC makes it difficult to course correct. Administrative code has a much shorter timeline to make changes.

I thank you for your time this listening to my comments and I stand for questions if you have any.

Michelle Roeszler  
Fargo, ND



Chairman Louser, Vice-Chair Ostile, and members of the house Industry, Business, and Labor Committee:

My name is Becca Koepplin, I am the owner of a program in Elgin North Dakota. I run a group license from our home with a limit to 30 children.

I am writing today in opposition to HB1298. I have personally held a business liability insurance for the 3 years I have been a provider but it hasn't been without its hardships. I am currently covered under the only company I have been able to that will accept childcare in a home and will write me a policy. My biggest fear is if this company chooses to no longer cover a policy for me, then I am out to nothing.

I believe that liability insurance should be a business's choice and not mandated by the state, especially for those providers who are wanting to start up, but the cost of liability is roughly \$2,000-\$5,000 in a startup cost. But its pushing potential providers away from wanting to go forward with this process. I also understand it is not cheap to start any business. But we are trying to provider services for families so we can keep this world afloat with workers.

23.0683.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Koppelman  
January 25, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1298

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Page 1, line 9, replace "proof" with "a copy of a certificate"

Page 1, line 10, replace "is" with "naming the department as the certificate holder,"

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Page 1, after line 13, insert:

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Re-number accordingly