

**Testimony**  
**Senate Bill No. 2238**  
**Senate Human Services Committee**  
**Senator Judy Lee , Chairman**  
January 30, 2023

Chairman Lee, and members of the Senate Human Services Committee, I am Jessica Thomasson, Executive Director of the Human Services Division of the Department of Health and Human Services (Department). I appear before you to offer information related to Senate Bill 2238 and to propose an amendment for your consideration.

Senate Bill 2238 seeks to address a challenge childcare providers and other employers have in obtaining fingerprints for their federally required fingerprint-based background checks.

The Department operates live scan fingerprint machines in each of the state's eight Human Service Centers (HSC). These fingerprinting locations can be found Fargo, Grand Forks, Devils Lake, Jamestown, Minot, Williston, Dickinson and Bismarck. In addition, live scan machines are also located at the State Hospital in Jamestown, Life Skills Transition Center (LSTC) in Grafton, and the Rolla outreach clinic. An additional portable machine is available in Dickinson to be checked out by the childcare licensors as needed.

Live scan machines allow the Department to digitally scan fingerprints, eliminating the need for ink-rolled fingerprints. The digital fingerprints are then sent directly to the Department's Central Background Check Unit and the ND Bureau of Criminal Investigations. Once the Central Background Check Unit receives the fingerprints and the full packet of materials from the HSC Live Scan Operator, the fingerprints can be processed. Live scan machines are required to be on the State of ND's IT network to assure safe

and secure transmission of prints from the field to the Central Background Check Unit and the ND Bureau of Criminal Investigations.

The machines currently in use are over 20 years old and use an obsolete operating system, which poses a security risk and compromises productivity. To remedy this, replacement machines for each of the eleven fixed locations described above will be installed before the end of the current biennium.

Each of the fixed locations has at least one trained staff person available to conduct the live scan fingerprints. Only Southeast Human Service Center has a dedicated full-time temporary staff person to conduct the live scan fingerprints. All other trained staff have multiple duties within their location, including conducting live scan fingerprints. The 2023-25 Executive Budget Request includes a request to convert the existing full time temporary position at Southeast Human Service Center to an FTE to reduce the disruptive impact of high turnover on fingerprint appointment availability. The 2023-25 budget request also includes funding to support further automation of the processes surrounding finger printing and background checks.

To align the intent of Senate Bill 2238 with the Department's ongoing efforts related to fingerprinting and background checks, we are presenting the following amendments for your consideration.

On Page 1, line 20, the Department's amendment proposes that "a fifty mile [80.47-kilometer] radius" be replaced with "the department will maintain no fewer than twenty-one staffed fingerprinting stations across the state, aligning locations to demand." This change in language would allow the department to place an additional 10 live scan fingerprinting stations in locations that are experiencing consistent problems with availability of timely appointments.

Page 2, line 25, remove “for another purpose within the last two years.” The federal government and the FBI do not allow fingerprint-based background checks to be used for any other program, other than the intended purpose of the application as stated at the time of the application. For example, if someone had a background check completed for employment at a HSC, and three months later chose to work at a child care center part time, FBI policy on background check processes would require a new background to be completed.

Page 2, lines 30 and 31 adds language that would allow the Department to purchase additional fingerprint machines consistent with the equipment used for the replacement of machines that is occurring in this biennium, rather than initiating a new procurement process.

The amendment language also removes the requirement for a legislative study to review other states’ background check processes and timeliness metrics. The 2023-25 Executive Budget Request includes funding to support automation within the background check process. As part of scoping and designing that system, NDIT and the Department will research best practices in other states, conduct demonstrations with other state automated systems and issue an RFP to identify a vendor to implement automations and improvements.

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2238

Page 1, line 3, replace “a legislative management study” with “application”

Page 1, line 20, replace “a fifty mile [80.47-kilometer] radius” with “the department will maintain no fewer than twenty-one staffed fingerprinting stations across the state, aligning locations to demand”

Page 2, line 21, remove the underscored colon

Page 2, line 22, remove “a.”

Page 2, line 22, replace “The” with “the”

Page 2, line 23, remove “;or”

Page 2, remove line 24

Page 2, line 25, remove “for another purpose within the last two years”

Page 2, line 28, overstrike “after” and insert immediately thereafter “before”

Page 2, replace lines 30 and 31 with:

**“SECTION 2. APPLICATION.** The requirements of chapter 54-44.4 do not apply to the selection and purchase of equipment to obtain fingerprints and to perform criminal history record checks under Section 1 of this Bill.”

Page 3, remove lines 1 through 7

Renumber accordingly

**Number of Individuals fingerprinted by location - 2022**

*Cumulative monthly average* 772

*Total individuals served CY22* 9,262

| <b>Transmitted via Live Scan</b>             | <b>JAN</b> | <b>FEB</b> | <b>MAR</b> | <b>APR</b> | <b>MAY</b> | <b>JUNE</b> | <b>JULY</b> | <b>AUG</b> | <b>SEPT</b> | <b>OCT</b> | <b>NOV</b> | <b>DEC</b> |
|--|------------|------------|------------|------------|------------|-------------|-------------|------------|-------------|------------|------------|------------|
| <b>West Central HSC (Bismarck)</b>           | 105        | 133        | 155        | 116        | 149        | 132         | 148         | 156        | 142         | 108        | 84         | 88         |
| <b>Southeast HSC (Fargo)</b>                 | 127        | 128        | 172        | 131        | 150        | 128         | 128         | 210        | 184         | 158        | 142        | 118        |
| <b>Northeast HSC (Grand Forks)</b>           | 69         | 80         | 81         | 67         | 98         | 92          | 55          | 105        | 81          | 83         | 77         | 50         |
| <b>North Central HSC (Minot)</b>             | 79         | 86         | 72         | 61         | 80         | 73          | 67          | 97         | 74          | 76         | 65         | 50         |
| <b>South Central HSC (Jamestown)</b>         | 16         | 38         | 36         | 24         | 34         | 18          | 17          | 34         | 40          | 25         | 14         | 14         |
| <b>Lake Region HSC (Devils Lake) / Rolla</b> | 36         | 35         | 51         | 18         | 32         | 43          | 15          | 41         | 54          | 43         | 27         | 26         |
| <b>Badlands HSC (Dickinson)</b>              | 33         | 24         | 32         | 39         | 35         | 43          | 36          | 52         | 58          | 30         | 29         | 30         |
| <b>Northwest HSC (Williston)</b>             | 26         | 41         | 36         | 17         | 47         | 42          | 36          | 33         | 31          | 31         | 30         | 14         |
| <b>Life Skills Transition Ctr (Grafton)</b>  | 30         | 37         | 28         | 6          | 9          | 62          | 27          | 24         | 15          | 22         | 22         | 15         |
| <b>ND State Hospital (Jamestown)</b>         | 6          | 17         | 10         | 12         | 7          | 8           | 9           | 10         | 8           | 4          | 7          | 7          |
| <b>Transmitted via Mail</b>                  |            |            |            |            |            |             |             |            |             |            |            |            |
| <b>Ink Rolled</b>                            | 70         | 85         | 112        | 90         | 167        | 209         | 99          | 147        | 161         | 145        | 85         | 81         |
| <b>Law Enforcement</b>                       | 49         | 41         | 59         | 53         | 80         | 76          | 62          | 63         | 83          | 70         | 41         | 41         |
| <b>BCI Only (no prints)</b>                  | 2          | 0          | 8          | 2          | 3          | 2           | 2           | 0          | 4           | 2          | 0          | 0          |
| <b>TOTALS</b>                                | 648        | 745        | 852        | 636        | 891        | 928         | 701         | 972        | 935         | 797        | 623        | 534        |