

SENATE BILL NO. 2251

Introduced by

Senators Poolman, Armstrong, Myrdal

Representatives Roers Jones, Rohr

1 A BILL for an Act to create and enact two new sections to chapter 50-25.1 of the North Dakota
2 Century Code, relating to substance exposed newborns; and to amend and reenact sections
3 50-25.1-02, 50-25.1-05, 50-25.1-06.1, and 50-25.1-09 of the North Dakota Century Code,
4 relating to substance exposed newborns.

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

6 **SECTION 1. AMENDMENT.** Section 50-25.1-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-25.1-02. Definitions.**

9 In this chapter, unless the context or subject matter otherwise requires:

- 10 1. "A person responsible for the child's welfare" means ~~a person~~ an individual who has
11 responsibility for the care or supervision of a child and who is the child's parent, an
12 adult family member of the child, any member of the child's household, the child's
13 guardian, or the child's foster parent; or an employee of, or any person providing care
14 for the child in, a public or private school or child care setting.
- 15 2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol abuse or
16 dependence as defined in the current edition of the "Diagnostic and Statistical Manual
17 of Mental Disorders" published by the American psychiatric association or a
18 maladaptive use of alcohol with negative medical, sociological, occupational, or
19 familial effects.
- 20 3. "Abused child" means an individual under the age of eighteen years who is suffering
21 from abuse as defined in section 14-09-22 caused by a person responsible for the
22 child's welfare and "sexually abused child" means an individual under the age of
23 eighteen years who is subjected by a person responsible for the child's welfare, or by

1 any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07,
2 sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.

3 4. "Alternative response assessment" means a child protection response involving
4 substance exposed newborns which is designed to:
5 a. Provide referral services to and monitor support services for a person responsible
6 for the child's welfare and the substance exposed newborn; and
7 b. Develop a plan of safe care for the substance exposed newborn.

8 5. "Assessment" means a factfinding process designed to provide information that
9 enables a determination to be made that services are required to provide for the
10 protection and treatment of an abused or neglected child.

11 5-6. "Authorized agent" means the county social service board, unless another entity is
12 designated by the department.

13 6-7. "Children's advocacy center" means a full or associate member of the national
14 children's alliance which assists in the coordination of the investigation in response to
15 allegations of child abuse by providing a dedicated child-friendly location at which to
16 conduct forensic interviews, forensic medical examinations, and other appropriate
17 services and which promotes a comprehensive multidisciplinary team response to
18 allegations of child abuse. The team response may include forensic interviews,
19 forensic medical examinations, mental health and related support services, advocacy,
20 and case review.

21 7-8. "Citizen review committee" means a committee appointed by the department to review
22 the department's provision of child welfare services.

23 8-9. "Department" means the department of human services or its designee.

24 9-10. "Institutional child abuse or neglect" means situations of known or suspected child
25 abuse or neglect when the institution responsible for the child's welfare is a residential
26 child care facility, a treatment or care center for individuals with intellectual disabilities,
27 a public or private residential educational facility, a maternity home, or any residential
28 facility owned or managed by the state or a political subdivision of the state.

29 10-11. "Local child protection team" means a multidisciplinary team consisting of the
30 designee of the director of the regional human service center, together with such other
31 representatives as that director might select for the team with the consent of the

1 director of the county social service board. All team members, at the time of their
2 selection and thereafter, must be staff members of the public or private agencies they
3 represent or shall serve without remuneration. An attorney member of the child
4 protection team may not be appointed to represent the child or the parents at any
5 subsequent court proceeding nor may the child protection team be composed of fewer
6 than three members. The department shall coordinate the organization of local child
7 protection teams on a county or multicounty basis.

8 ~~11.12.~~ "Near death" means an act which, as certified by a physician, places a child in serious
9 or critical condition.

10 ~~12.13.~~ "Neglected child" means a deprived child as defined in chapter 27-20.

11 ~~13.14.~~ "Prenatal exposure to a controlled substance" means use of a controlled substance as
12 defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during
13 pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a
14 toxicology test performed on the mother at delivery of the child at birth, or medical
15 effects or developmental delays during the child's first year of life that medically
16 indicate prenatal exposure to a controlled substance.

17 ~~14.15.~~ "Protective services" includes services performed after an assessment of a report of
18 child abuse or neglect has been conducted, such as social assessment, service
19 planning, implementation of service plans, treatment services, referral services,
20 coordination with referral sources, progress assessment, monitoring service delivery,
21 and direct services.

22 ~~15.16.~~ "State child protection team" means a multidisciplinary team consisting of the
23 designee of the department and, where possible, of a physician, a representative of a
24 child-placing agency, a representative of the state department of health, a
25 representative of the attorney general, a representative of the superintendent of public
26 instruction, a representative of the department of corrections and rehabilitation, one or
27 more representatives of the lay community, and, as an ad hoc member, the designee
28 of the chief executive official of any institution named in a report of institutional abuse
29 or neglect. All team members, at the time of their selection and thereafter, must be
30 staff members of the public or private agency they represent or shall serve without
31 remuneration. An attorney member of the child protection team may not be appointed

1 to represent the child or the parents at any subsequent court proceeding nor may the
2 child protection team be composed of fewer than three persons.

3 17. "Substance exposed newborn" means an infant younger than twenty-eight days of age
4 at the time of the initial report of child abuse or neglect and who is identified as being
5 affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum
6 disorder.

7 **SECTION 2. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-25.1-05. Assessment - Alternative response assessment.**

- 10 1. The department, in accordance with rules adopted by the department, immediately
11 shall initiate an assessment; or alternative response assessment or cause an
12 assessment, of any report of child abuse or neglect including, when appropriate, the
13 assessment or alternative response assessment of the home or the residence of the
14 child, any school or child care facility attended by the child, and the circumstances
15 surrounding the report of abuse or neglect.
- 16 2. According to guidelines developed by the department, the department may initiate an
17 alternative response assessment if the department determines initiation is appropriate.
- 18 3. If the report alleges a violation of a criminal statute involving sexual or physical abuse,
19 the department and an appropriate law enforcement agency shall coordinate the
20 planning and execution of their investigation efforts to avoid a duplication of factfinding
21 efforts and multiple interviews. The department or the law enforcement agency may:
- 22 a. Refer the case to a children's advocacy center for a forensic interview, forensic
23 medical examination, and other services.
- 24 b. Interview, without the consent of a person responsible for the child's welfare, the
25 alleged abused or neglected child and any other child who currently resides or
26 who has resided with the person responsible for the child's welfare or the alleged
27 perpetrator.
- 28 c. Conduct the interview at a school, child care facility, or any other place where the
29 alleged abused or neglected child or other child is found.
- 30 ~~3.4.~~ Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional
31 human service center shall disclose to the department or the department's authorized

1 agent, upon request, the records of a patient or client which are relevant to an
2 assessment of reported child abuse or neglect.

3 4.5. The department shall adopt guidelines for case referrals to a children's advocacy
4 center. When cases are referred to a children's advocacy center, all interviews of the
5 alleged abused or neglected child conducted at the children's advocacy center under
6 this section shall be audio-recorded or video-recorded.

7 **SECTION 3. AMENDMENT.** Section 50-25.1-06.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-25.1-06.1. Caseload standards - Reimbursement.**

10 The department shall adopt caseload standards establishing minimum staff-to-client ratios
11 for the assessment and alternative response assessment of reports of child abuse or neglect
12 and the provision of protective services. Within the limits of legislative appropriation, the
13 department shall reimburse its authorized agent, upon claim being made by the authorized
14 agent, for seventy-five percent of additional staff costs caused by the imposition of such
15 caseload standards. Upon a determination that legislative appropriations are insufficient to
16 reimburse each claiming authorized agent in the amount of seventy-five percent of such
17 additional staff costs, the department shall reimburse each claiming authorized agent for that
18 percentage of additional staff costs which the appropriation is sufficient to defray.

19 **SECTION 4. AMENDMENT.** Section 50-25.1-09 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **50-25.1-09. Immunity from liability.**

22 Any person, other than the alleged violator, participating in good faith in the making of a
23 report, assisting in an investigation or, assisting in an assessment, assisting in an alternative
24 response assessment, furnishing information, or in providing protective services under this
25 chapter or who is a member of the child fatality review panel, is immune from any liability, civil or
26 criminal, except for criminal liability as provided by section 50-25.1-13, that otherwise might
27 result from reporting the alleged case of abuse, neglect, or death resulting from child abuse or
28 neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person
29 required to report cases of child abuse, neglect, or death resulting from abuse or neglect must
30 be presumed.

1 **SECTION 5.** A new section to chapter 50-25.1 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Alternative response assessment - Compliance.**

4 If an alternative response assessment is initiated as a result of a report of child abuse or
5 neglect, a decision that services are required may not be made if the person responsible for the
6 child's welfare complies with the resulting referred services and plan of safe care for the
7 substance exposed newborn. The department shall determine whether a person responsible for
8 the child's welfare has complied with the referred services and plan of safe care for the
9 substance exposed newborn. If the department determines a person responsible for the child's
10 welfare has not complied with the referred services and plan of safe care for the substance
11 abuse newborn, an assessment of the initial report of child abuse or neglect may be completed.

12 **SECTION 6.** A new section to chapter 50-25.1 of the North Dakota Century Code is created
13 and enacted as follows:

14 **Alternative response assessment - Services.**

- 15 1. In response to an alternative response assessment, the department:
16 a. Shall provide referral services to, and monitor support services for, the person
17 responsible for the child's welfare, the substance exposed newborn, and other
18 children under the same care as may be necessary for their well-being;
19 b. Shall develop a plan of safe care for the substance exposed newborn; and
20 c. May take any appropriate action under chapter 25-03.1.
21 2. The department may discharge the powers and duties provided under this section
22 through an authorized agent.