

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2039**

Introduced by

Legislative Management

(Human Services Committee)

1 A BILL for an Act to create and enact section 50-06-06.14 of the North Dakota Century Code,
2 relating to the placement of children in the least restrictive environment; to amend and reenact
3 sections 50-06-01, 50-06-01.4, 50-06-05.2, 50-06-05.3, 50-06-05.4, 50-06-06.2, and
4 50-06-06.5, and subsection 1 of section 50-06-20 of the North Dakota Century Code, relating to
5 the structure and duties of the department of human services with respect to behavioral health;
6 to repeal chapter 25-10 and sections 25-02-02, 50-06-01.2, and 50-06-23 of the North Dakota
7 Century Code, relating to mental health services, the additional location for a hospital for the
8 mentally ill, and the assumption of duties by the department of human services; to provide for
9 transition; to provide a statement of legislative intent; and to provide an effective date.

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

11 **SECTION 1. AMENDMENT.** Section 50-06-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **50-06-01. Definition.**

14 As used in this chapter, unless the context otherwise requires, "~~department~~" means the
15 ~~department of human services.~~

- 16 1. "Behavioral health" means the planning and implementation of preventive,
17 consultative, diagnostic, treatment, crisis intervention, and rehabilitative services for
18 individuals with mental, emotional, or substance use disorders, and psychiatric
19 conditions.
- 20 2. "Behavioral health provider" means any licensed or accredited behavioral health
21 provider in this state.
- 22 3. "Department" means the department of human services.
- 23 4. "Human services" means services provided to an individual or an individual's family in
24 need of services to assist the individual or the individual's family in achieving and

1 maintaining basic self-sufficiency, including physical health, mental health, education,
2 welfare, food and nutrition, and housing.

3 **SECTION 2. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **50-06-01.4. Structure of the department.**

- 6 1. The department includes the state hospital, the regional human service centers, a
7 vocational rehabilitation unit, and other units or offices and administrative and fiscal
8 support services as the executive director determines necessary. The department
9 must be structured to promote efficient and effective operations and, consistent with
10 fulfilling its prescribed statutory duties, shall act as the official agency of the state in
11 the discharge of the following functions not otherwise by law made the responsibility of
12 another state agency:
- 13 a. Administration of programs for children and families, including adoption services
14 and the licensure of child-placing agencies, foster care services and the licensure
15 of foster care arrangements, child protection services, children's trust fund, state
16 youth authority, licensure of day care homes and facilities, services to unmarried
17 parents, refugee services, in-home community-based services, and
18 administration of the interstate compacts on the placement of children and
19 juveniles.
- 20 b. Administration of programs for individuals with developmental disabilities,
21 including licensure of facilities and services, and the design and implementation
22 of a community-based service system for persons in need of habilitation.
- 23 c. Administration of aging service programs, including nutrition, transportation,
24 advocacy, social, ombudsman, recreation, and related services funded under the
25 Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and
26 community-based services, licensure of adult family care homes, committee on
27 aging, and the fund matching program for city or county tax levies for senior
28 citizen activities and services.
- 29 ~~d. Administration of mental health programs, including planning and implementing~~
30 ~~preventive, consultative, diagnostic, treatment, and rehabilitative services for~~
31 ~~persons with mental or emotional disorders and psychiatric conditions.~~

- 1 e. ~~Administration of alcohol and drug abuse programs, including establishing quality-~~
2 ~~assurance standards for the licensure of programs, services, and facilities,~~
3 ~~planning and coordinating a system of prevention, intervention, and treatment-~~
4 ~~services, providing policy leadership in cooperation with other public and private-~~
5 ~~agencies, and disseminating information to local service providers and the-~~
6 ~~general public.~~Administration of behavioral health programs, including:
7 (1) A policy division responsible for reviewing and identifying service needs and
8 activities in the state's behavioral health system in an effort to ensure health
9 and safety, access to services, and quality of services; establishing quality
10 assurance standards for the licensure of substance use disorder program
11 services and facilities; and providing policy leadership in partnership with
12 public and private entities; and
13 (2) A service delivery division responsible for providing chronic disease
14 management, regional intervention services, and twenty-four-hour crisis
15 services for individuals with behavioral health disorders.
16 f.e. Administration of economic assistance programs, including temporary assistance
17 for needy families, the supplemental nutrition assistance program, fuel
18 assistance, child support enforcement, refugee assistance, work experience,
19 work incentive, and quality control.
20 g-f. Administration of medical service programs, including medical assistance for
21 needy persons, early and periodic screening, diagnosis and treatment, utilization
22 control, and claims processing.
23 2. The executive director shall consult with and maintain a close working relationship with
24 the state department of health; with the department of corrections and rehabilitation
25 and the superintendents of the school for the deaf and the North Dakota vision
26 services - school for the blind to develop programs for individuals with developmental
27 disabilities; and with the superintendent of public instruction to maximize the use of
28 resource persons in regional human service centers in the provision of special
29 education services. The executive director shall also maintain a close liaison with
30 county social service agencies.

1 **SECTION 3. AMENDMENT.** Section 50-06-05.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-06-05.2. Regional human service centers - Licensure - Collocation with county**
4 **social service boards.**

5 Human services must be delivered through regional human service centers in the areas
6 designated by the governor's executive order 1978-12 dated October 5, 1978. ~~Services~~
7 ~~provided by regional human service centers must include those services formerly provided by~~
8 ~~mental health and retardation service units and area social service centers.~~ The regional human
9 service centers must be accredited by a national accrediting body and are subject to licensing
10 by the department. The department shall adopt rules and standards for the licensing and for the
11 operation of the regional human service centers. ~~No~~ A human service center may not operate
12 without a license issued hereunder in accordance with this section. Regional human service
13 centers are authorized to receive federal and other funds available to finance, in whole or in
14 part, the services and operations of the centers. Any county social service board collocating its
15 offices with a regional human service center must, within the limits of legislative appropriations,
16 be reimbursed up to fifty percent of the amount expended for space costs in excess of the
17 amount provided by the federal government.

18 **SECTION 4. AMENDMENT.** Section 50-06-05.3 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-06-05.3. Regional human service centers - Powers - Duties - Human service**
21 **advisory groups.**

22 1. ~~Regional human service centers organized under this chapter are those centers~~
23 ~~established to provide human services as authorized by law. The term "human~~
24 ~~service" means service provided to individuals or their families in need thereof to help~~
25 ~~them achieve, maintain, or support the highest level of personal independence and~~
26 ~~economic self-sufficiency, including health, mental health, education, manpower,~~
27 ~~social, food and nutrition, and housing service. Regional human service centers shall~~
28 ~~function as regional administrative units established, within the multicounty areas~~
29 ~~designated by the governor's executive order 1978-12 dated October 5, 1978, to~~
30 ~~provide for the planning and delivery of human services.~~

- 1 2. Regional human service centers shall provide human services to all eligible individuals
2 and families to help ~~them~~individuals and families achieve or maintain social,
3 emotional, and economic self-sufficiency; ~~prevent~~, by providing human services to:
4 a. Prevent, reduce, or eliminate dependency; ~~prevent~~
5 b. Prevent or remedy the neglect, abuse, or exploitation of children and of adults
6 unable to protect their own interests; ~~aid~~
7 c. Aid in the preservation, rehabilitation, and reuniting of families; ~~prevent~~
8 d. Prevent or reduce inappropriate institutional care by providing for care while
9 institutionalized or providing for community-based or other forms of less
10 restrictive care; ~~secure~~
11 e. Secure referral or admission for institutional care; ~~provide~~
12 f. Provide outpatient diagnostic and treatment services; ~~provide~~
13 g. Provide information concerning guardianship to people interested in becoming or
14 who are guardians; and ~~provide~~
15 h. Provide rehabilitation and crisis services for patients with mental ~~or~~, emotional, or
16 substance use disorders, an intellectual disability, and other psychiatric
17 conditions, particularly for those patients who have received prior treatment in an
18 inpatient facility.
- 19 2. Regional human service centers shall deliver services in the manner prescribed by the
20 department.
- 21 3. ~~The director shall appoint a human service advisory group for each human service-~~
22 ~~center consisting of up to thirteen members~~Each human service center must have a
23 human services advisory group consisting of the county social service directors of the
24 region served, the public health directors of the region served, two current county
25 commissioners appointed by the executive director of the department, and five
26 additional members appointed by the executive director of the department. Each
27 advisory group member must be a resident of the region the member is appointed to
28 serve. ~~The director shall appoint two current county commissioners and one current~~
29 ~~county social service board member to serve as members of a human service-~~
30 ~~advisory group. The director may appoint an additional current commissioner to serve~~
31 ~~in lieu of the current county social service board member. The term~~term of office must

1 before each appointed member is two years and arranged so that the term of
2 one-half~~three~~ of the appointed members expires at the end of the first year and the
3 term of the remaining four appointed members expires at the end of the second year,
4 except for those first members appointed, three members shall serve a one-year term
5 and four members shall serve a two-year term. The director shall select the appointed
6 members of each human service advisory group on the basis of population of the
7 counties in the region served by the human service center. Each county in the region
8 must be represented by at least one member on the human service advisory group. To
9 the extent possible, appointed membership of the advisory group must reflect regional
10 interests in the fields of developmental disabilities, social services, mental health, and
11 ~~alcoholism and drug abuse~~substance use disorders. The executive director of the
12 department shall appoint a chairman for each advisory group from the membership of
13 the advisory group. The executive director of the department shall fill a vacancy
14 occurring within an advisory group for other than the expiration of a term in the same
15 manner as original appointments, except that appointments must be made only for the
16 unexpired term. The department shall compensate appointed members of a human
17 service advisory group at the rate of forty-five dollars per day, not to exceed
18 twenty-five days in any one year. The department also shall pay members for mileage
19 and actual expenses incurred in attending meetings and in the performance of their
20 official duties in the amounts provided by law for other state officers.

21 **SECTION 5. AMENDMENT.** Section 50-06-05.4 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **50-06-05.4. Duties of human service advisory groups.**

24 Each human service advisory group of the regional human service centers shall perform the
25 following duties:

- 26 1. Provide information to the department relative to needs assessment and the planning
27 and development of health and social resources for the effective and efficient delivery
28 of high-quality human services fully accessible to all citizens.
- 29 2. Review services and programs provided by the regional human service centers and
30 make periodic recommendations ~~the advisory group may have~~ for improvement in
31 services, programs, or facilities.

1 3. Promote cooperation and working agreements with public agencies, including public
2 health and corrections and private human service agencies.

3 4. Promote local and regional financing from public and private sources.

4 **SECTION 6. AMENDMENT.** Section 50-06-06.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.**

7 Within the limits of legislative appropriation therefor and in accordance with rules
8 established by the department, the department may defray the costs of preventive diagnostic,
9 therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible
10 individuals by regional human service centers or designated behavioral health providers. Within
11 the limits of legislative appropriations and to the extent permitted by state and federal law and
12 regulations established thereunder, it is the intent of the legislative assembly that federal funds
13 available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray
14 the costs of identifiable mental health clinic services furnished eligible individuals in regional
15 human service centers and that federal funds available under title XX of the Social Security Act
16 [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished
17 eligible individuals by county social service boards and regional human service centers.

18 **SECTION 7. AMENDMENT.** Section 50-06-06.5 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-06-06.5. Continuum of services for ~~chronically mentally ill~~ individuals with serious**
21 **and persistent mental illness.**

22 1. The department of human services shall develop a plan for an integrated,
23 multidisciplinary continuum of services for ~~chronically mentally ill~~ individuals with
24 serious and persistent mental illness. The continuum may consist of an array of
25 services provided by private mental health professionals, private agencies, county
26 social service agencies, human service centers, community-based residential care
27 and treatment facilities, and private and public inpatient psychiatric hospitals. ~~To the~~
28 ~~extent feasible~~ When appropriate, access to the continuum must be through human
29 service centers. Within the limits of legislative appropriations, the plan for a continuum
30 may include:

31 4. a. Programs, and appropriate related facilities, to provide socialization skills.

- 1 2. b. Programs, and appropriate related facilities, to provide basic living skills.
- 2 3. c. Appropriate residential facilities and other housing options.
- 3 4. d. Appropriate training, placement, and support to enhance potential for
- 4 employment.
- 5 5. e. Appropriate delivery and control of necessary medication.
- 6 6. f. Appropriate economic assistance.
- 7 7. g. An inpatient facility with appropriate programs to respond to persons who require
- 8 hospitalization.
- 9 h. Peer and recovery support.
- 10 i. Crisis service that is available twenty-four hours a day seven days a week.
- 11 2. The continuum of care must provide that a person requiring treatment be submitted to
- 12 the least restrictive available conditions necessary to achieve the purposes of
- 13 treatment. The department shall ensure appropriate cooperation with county social
- 14 service agencies and private providers in achieving the continuum of care.

15 **SECTION 8.** Section 50-06-06.14 of the North Dakota Century Code is created and enacted
16 as follows:

17 **50-06-06.14. Placement of children - Least restrictive care.**

18 The department and county social service boards shall explore the option of kinship care
19 when a child is unable to return home due to safety concerns. Absent kinship options, the
20 department and county social service boards shall provide permanency options that are in the
21 least restrictive care and near the family's home as required by the federal Adoption and Safe
22 Family Act of 1997 [Pub. L. 105-89; 111 Stat. 2115; 42 U.S.C. 671].

23 **SECTION 9. AMENDMENT.** Subsection 1 of section 50-06-20 of the North Dakota Century
24 Code is amended and reenacted as follows:

- 25 1. The state shall bear the cost, in excess of the amount provided by the federal
26 government, of:
 - 27 a. As provided in section 50-24.1-14, medical assistance services provided under
28 chapter 50-24.1;
 - 29 b. Energy assistance program benefits provided under subsection ~~4918~~ of section
30 50-06-05.1;
 - 31 c. Supplements provided under chapter 50-24.5 as basic care services;

- 1 d. Services, programs, and costs listed in section 50-09-27;
- 2 e. Welfare fraud detection programs; and
- 3 f. Special projects approved by the department and agreed to by any affected
- 4 county social service board.

5 **SECTION 10. REPEAL.** Chapter 25-10 and sections 25-02-02, 50-06-01.2, and 50-06-23 of
6 the North Dakota Century Code are repealed.

7 **SECTION 11. TRANSITION.** All unexpired terms of members of a human service advisory
8 group under section 50-06-05.3 are deemed expired as of July 31, 2017. An individual who is a
9 member of a human service advisory group as of July 31, 2017, who is otherwise qualified, may
10 be reappointed to the human service advisory group on which the individual previously served.

11 **SECTION 12. LEGISLATIVE INTENT.** It is the intent of the sixty-fifth legislative assembly
12 that the sixty-sixth legislative assembly appropriate funds to the department of human services
13 to help defray the cost of the accreditation of regional human services centers required under
14 section 3 of this Act.

15 **SECTION 13. EFFECTIVE DATE.** Section 3 of this Act becomes effective on August 1,
16 2021.