

PUBLIC WELFARE

CHAPTER 331

HOUSE BILL NO. 1136

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to substance use disorder treatment voucher system; to amend and reenact subsections 4 and 5 of section 50-01.2-03, subsection 1 of section 50-06-01.4, sections 50-06-05.1 and 50-06-05.2, subsection 1 of section 50-06-05.3, sections 50-06-05.5 and 50-06-06.6, subsection 1 of section 50-06-20, sections 50-06-23, 50-06-24, and 50-06-29, and subsection 1 of section 50-06-34 of the North Dakota Century Code, relating to departmental updates for statutory consistency, technical corrections, powers and duties of the department, department structure, program activities, regional human service centers, leases, and aging and disability resource center funding; and to repeal sections 50-06-01.5, 50-06-36, 50-06-39, and 50-08.1-01 of the North Dakota Century Code, relating to office and office equipment, developmental disability provider review, expedited ratesetting process, and coordinating services for pregnant women; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 4 and 5 of section 50-01.2-03 of the North Dakota Century Code are amended and reenacted as follows:

4. Subject to subsection ~~4716~~ of section 50-06-05.1, administer the supplemental nutrition assistance program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the supplemental nutrition assistance program with the department of human services.
5. Subject to subsection ~~4918~~ of section 50-06-05.1, administer the home energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the home energy assistance program with the department of human services.

¹⁵⁰ **SECTION 2. AMENDMENT.** Subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines

¹⁵⁰ Section 50-06-01.4 was also amended by section 3 of House Bill No. 1117, chapter 332, and section 2 of Senate Bill No. 2039, chapter 353.

necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

- a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, state youth authority, licensure of ~~day care homes and facilities~~ early childhood programs, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.
- b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
- c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult ~~family~~ foster care homes, and the committee on aging, ~~and the fund matching program for city or county tax levies for senior citizen activities and services.~~
- d. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.
- e. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.
- f. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, ~~fuel~~ home energy assistance, child support ~~enforcement~~, refugee assistance, work experience, work incentive, and quality control.
- g. Administration of medical service programs, including medical assistance ~~for needy persons~~, children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.

¹⁵¹ **SECTION 3. AMENDMENT.** Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department.

¹⁵¹ Section 50-06-05.1 was also amended by section 16 of House Bill No. 1041, chapter 108.

The department has the following powers and duties to be administered by the department through its state office or through regional human service centers or otherwise as directed by it:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of deprived, unruly, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate ~~social~~human services related legislation to the legislative assembly.
8. To direct and supervise county social service board activities as may be financed in whole or in part by or with funds allocated or distributed by the department.
9. ~~To inform the public as to social conditions and ways of meeting social needs.~~
10. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
- 11-10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including ~~child care facilities~~early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
- 12-11. To permit the making of any surveys of human service needs and activities if determined to be necessary.

- 43-12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
- 44-13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, county social service board, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
- 45-14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, ~~all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.~~
- 46-15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, ~~all reports to be kept confidential for use by the judge except as may be disclosed by the judge.~~
- 47-16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, the department shall deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
- 48-17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.
- 49-18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise county administration of

that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.

~~20-19.~~ To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.

~~21-20.~~ To exercise and carry out any other powers and duties granted the department under state law.

~~22.~~ To coordinate services for pregnant women.

~~23-21.~~ To administer, allocate, and distribute any funds made available for the payment of transitional living services, to develop standards and conduct needs assessments regarding transitional living services, to develop or approve and to evaluate demonstration projects offering transitional living programs, to approve transitional living facilities for the purpose of providing foster care, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection. For purposes of this subsection:

- a. "Transitional living facility" means a specific site, which is identified by a licensed child-placing agency or residential child care facility and which is approved by the department, for the provision of transitional living services.
- b. "Transitional living program" means a program that provides transitional living services and may include an identified program operations location approved by the department.
- c. "Transitional living services" may include housing, supervision, and supportive services intended and designed to assist persons who have received foster care services and who have reached age seventeen, but who have not reached age twenty-one, to achieve independence and self-sufficiency.

~~24-22.~~ With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section

thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:

- a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
- b. The transaction is exempt from the provisions of section 50-06-06.6.
- c. The term of any lease may not exceed ninety-nine years.
- d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
- e. Any funds realized by any transaction must be deposited in the state's general fund.

25-23. To act as a decedent's successor for purposes of collecting amounts due to the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.

26-24. To provide those services necessary for the department and for county social service boards to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.

27-25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.

28-26. Notwithstanding section 50-01.2-00.1, to determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

¹⁵² **SECTION 4. AMENDMENT.** Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

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

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. Services provided by regional human service centers must include those services formerly provided by mental health and retardation service units and area social service centers. The regional human service centers are subject to licensing by the

¹⁵² Section 50-06-05.2 was also amended by section 3 of Senate Bill No. 2039, chapter 353.

department. The department shall adopt rules and standards for the licensing and operation of the regional human service centers. No human service center may operate without a license issued hereunder. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers. ~~Any county social service board collocating its offices with a regional human service center must, within the limits of legislative appropriations, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.~~

¹⁵³ **SECTION 5. AMENDMENT.** Subsection 1 of section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 6. AMENDMENT. Section 50-06-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.5. Director of regional center - Medical director.

Each regional human service center must be headed by a regional director appointed by the executive director of the department. The regional director must be accountable to the executive director or the director's designee. Each regional director may employ the staff necessary to discharge the center's responsibilities. A regional director, subject to the approval of the executive director of the department or the director's designee, and within the limit of legislative appropriations, may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the regional human service center's service delivery responsibilities. Each regional director shall hire a qualified medical professional who must be designated as the medical director of the center. The medical director is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the regional director, with the concurrence of the executive director or the director's designee. ~~The executive director or the director's designee may appoint the regional director of a center to be the medical director of that center, provided the regional director is qualified to be the medical director.~~ As used in this section, "qualified medical professional" means ~~an individual possessing a degree of doctor of psychiatry a board-eligible or board-certified psychiatrist,~~ when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

SECTION 7. AMENDMENT. Section 50-06-06.6 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵³ Section 50-06-05.3 was also amended by section 4 of Senate Bill No. 2039, chapter 353.

50-06-06.6. Department of human services may lease real and personal property.

The executive director of the department of human services may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The executive director also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest, ~~except those relating to child care services,~~ will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The executive director may prescribe the terms and conditions of any leases entered into pursuant to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium. ~~Any lease or lease renewal of unneeded building or building space may be made only after consultation with the administrator of the state fire and tornado fund.~~

¹⁵⁴ **SECTION 8. AMENDMENT.** Subsection 1 of section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. As provided in section 50-24.1-14, medical assistance services provided under chapter 50-24.1;
 - b. Energy assistance program benefits provided under subsection ~~49~~18 of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. Services, programs, and costs listed in section 50-09-27;
 - e. Welfare fraud detection programs; and
 - f. Special projects approved by the department and agreed to by any affected county social service board.

¹⁵⁵ **SECTION 9. AMENDMENT.** Section 50-06-23 of the North Dakota Century Code is amended and reenacted as follows:

50-06-23. Placement of children - Least restrictive care.

The department and county social service boards shall thoroughly explore the option of kinship care when a child is unable to return home due to safety concerns. Absent kinship options, the department and county social service boards shall provide permanency options that are in the least restrictive care and near the family's home as required by the federal Adoption and Safe Family Act of 1997 [Pub. L. 105-89; 111 Stat. 2115; 42 U.S.C. 671]. ~~Before January 1, 2006, the department of human services shall issue a request for proposal for the provision of residential treatment services to meet the needs of youth with a history of sexual offenses within the state~~

¹⁵⁴ Section 50-06-20 was also amended by section 9 of Senate Bill No. 2039, chapter 353.

¹⁵⁵ Section 50-06-23 was repealed by section 10 of Senate Bill No. 2039, chapter 353.

and explore options of therapeutic foster care for those youth who would benefit from this service level.

SECTION 10. AMENDMENT. Section 50-06-24 of the North Dakota Century Code is amended and reenacted as follows:

50-06-24. Guardianship services.

The department of human services may create and coordinate a unified system for the provision of guardianship services to vulnerable adults who are ineligible for developmental disabilities case program management services. The system must include a base unit funding level at the same level as developmental disability corporate guardianship rates, provider standards, staff competency requirements, and guidelines and training for guardians. The department shall adopt rules for guardianship services to vulnerable adults which are consistent with chapters 30.1-26, 30.1-28, and 30.1-29.

SECTION 11. AMENDMENT. Section 50-06-29 of the North Dakota Century Code is amended and reenacted as follows:

50-06-29. Application for aging and disability resource center funding.

~~No later than December 31, 2007, the~~The department of human services shall seek federal funds for the planning and implementation of ~~operate~~ an aging and disability resource center for the state. The resource center will be a single point of information program at the community level which will help people make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care, and which will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. ~~Upon receipt of federal funds, the department of human services may establish the aging and disability resource center or it may request bids and award a contract for the provision of this service. The duties of the aging and disability resource center must include all duties required to receive federal funds, including providing information about the full range of long-term care service and support options available in the state to assure that consumers may make informed decisions about their care.~~ The resource center must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the resource center to limit the information given to a consumer to steer the consumer to services that may also be provided by the resource center.

SECTION 12. AMENDMENT. Subsection 1 of section 50-06-34 of the North Dakota Century Code is amended and reenacted as follows:

1. The department shall develop, within current appropriations, a program for services to transition-aged youth at risk. The department shall use a wraparound planning process. The department shall adopt rules to establish eligibility, services, and a distinct statewide interagency advisory council on transition-aged youth at risk, with youth and family representation, and with regional subcommittees. For the purposes of this section, "transition-aged youth" means children and young adults at risk due to:
 - a. Deprivation or other activities resulting in youth being involved with the foster care or juvenile justice system;

- b. Serious mental illness or serious disabilities that do not qualify the youth for developmental disabilities easeprogram management; or
- c. Suicidal tendencies.

SECTION 13. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by private licensed substance abuse treatment programs and hospital, or medical clinic, based programs for medical management of withdrawal. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a private licensed substance abuse treatment program, hospitals, and medical clinic programs accepting vouchers collects and reports process and outcome measures. The department shall develop requirements and provide training and technical assistance to a private licensed substance abuse treatment program, hospitals, and medical clinic programs accepting vouchers. A private licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

SECTION 14. REPEAL. Sections 50-06-01.5, 50-06-36, 50-06-39, and 50-08.1-01 of the North Dakota Century Code are repealed.

SECTION 15. EMERGENCY. Section 13 of this Act is declared to be an emergency measure.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 332

HOUSE BILL NO. 1117

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 14-10-17 and 25-10-01.1, subdivision e of subsection 1 of section 50-06-01.4, and sections 50-06-01.7, 50-06-06.5, and 50-31-07 of the North Dakota Century Code, relating to changes in terminology with respect to substance abuse and behavioral health.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-10-17 of the North Dakota Century Code is amended and reenacted as follows:

14-10-17. Minors - Treatment for sexually transmitted disease - ~~Drug abuse - Alcoholism~~ Substance use disorder.

Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, ~~alcoholism, or drug abuse or substance use disorder~~ without permission, authority, or consent of a parent or guardian.

SECTION 2. AMENDMENT. Section 25-10-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-10-01.1. Unified mental health delivery system.

The ~~division of mental health services~~ behavioral health division shall plan, develop, implement, and supervise a unified mental health delivery system. The system must include the mental health services provided by the regional human service centers, the state hospital, and contracted services with providers in accordance with the state mental health plan.

¹⁵⁶ **SECTION 3. AMENDMENT.** Subdivision e of subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

- e. Administration of ~~alcohol and drug abuses~~ substance use disorder treatment programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, early intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.

SECTION 4. AMENDMENT. Section 50-06-01.7 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.7. ~~Mental~~ Behavioral health division - Administration.

¹⁵⁶ Section 50-06-01.4 was also amended by section 2 of House Bill No. 1136, chapter 331, and section 2 of Senate Bill No. 2039, chapter 353.

The department of human services shall administratively restructure the ~~mental/behavioral~~ health division to require the division to develop and revise, when necessary, the state mental health plan and provide the ~~mental/behavioral~~ health division the authority to implement and supervise a unified mental health delivery system and to assure the mental health services provided by the human service centers, the state hospital, and contracted services are in accordance with the state plan.

¹⁵⁷ **SECTION 5. AMENDMENT.** Section 50-06-06.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.5. Continuum of services for chronically-mentally-ill individuals with serious mental illness.

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

1. Programs, and appropriate related facilities, to provide socialization skills.
2. Programs, and appropriate related facilities, to provide basic living skills.
3. Appropriate residential facilities.
4. Appropriate training, placement, and support to enhance potential for employment.
5. Appropriate delivery and control of necessary medication.
6. Appropriate economic assistance.
7. An inpatient facility with appropriate programs to respond to persons who require hospitalization.

The continuum of care must provide that a person requiring treatment be submitted to the least restrictive available conditions necessary to achieve the purposes of treatment. The department shall ensure appropriate cooperation with county social service agencies and private providers in achieving the continuum of care.

SECTION 6. AMENDMENT. Section 50-31-07 of the North Dakota Century Code is amended and reenacted as follows:

50-31-07. State opioid treatment authority.

The ~~division of mental health and substance abuse services~~behavioral health division of the department is designated as the state opioid treatment authority.

Approved March 2, 2017

Filed March 3, 2017

¹⁵⁷ Section 50-06-06.5 was also amended by section 7 of Senate Bill No. 2039, chapter 353.

CHAPTER 333

HOUSE BILL NO. 1040

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to an evidence-based alcohol and drug education program; to amend and reenact subsection 3 of section 5-01-08 of the North Dakota Century Code, relating to a penalty for individuals under twenty-one years of age using alcoholic beverages or entering licensed premises; to provide for a report; and to provide an appropriation to the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

3. A violation of this section is a class B misdemeanor. For a violation of subsection 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 2 of this Act.

SECTION 2. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Alcohol and drug education program - Rules - Fees.

The department shall adopt rules for an evidence-based alcohol and drug education program for individuals under the age of twenty-one who violate section 5-01-08. The rules must allow for the program provider to charge a fee to a participant in the program.

SECTION 3. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - PILOT PROJECT - CHILDREN'S PREVENTION AND EARLY INTERVENTION BEHAVIORAL HEALTH SERVICES - REPORT TO LEGISLATIVE MANAGEMENT.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of human services for the purpose of establishing a children's prevention and early intervention behavioral health services pilot project in the school system of the department's choice, including services to children suffering from the effects of behavioral health issues, for the biennium beginning July 1, 2017, and ending June 30, 2019. Before September 1, 2018, the department of human services shall report to the legislative management regarding the status of the children's prevention and early intervention behavioral health services pilot project.

SECTION 4. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - PEER-TO-PEER SUPPORT SERVICES - ALTERNATIVE USE.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing funds to one or more organizations to provide peer-to-peer support services, for the biennium

beginning July 1, 2017, and ending June 30, 2019. Funds provided under this section must be used for providing recovery and peer support services to individuals with behavioral health needs. If the department of human services has other funds available to provide for peer-to-peer support services for the biennium beginning July 1, 2017, and ending June 30, 2019, the department may allocate funds appropriated under this section for providing children's prevention and early intervention behavioral health services as provided for under section 3 of this Act.

SECTION 5. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - FAMILY-TO-FAMILY SUPPORT SERVICES. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing funds to one or more organizations to provide family-to-family support services, for the biennium beginning July 1, 2017, and ending June 30, 2019. Funds provided under this section must be used for providing support services to families with children who have disabilities or behavioral health needs.

Approved April 26, 2017

Filed April 26, 2017

CHAPTER 334

HOUSE BILL NO. 1226

(Representatives Hogan, P. Anderson, K. Koppelman, Mitskog, Olson, Schneider)
(Senators Grabinger, Nelson, Sorvaag)

AN ACT to provide for a study of establishment of a Medicaid fraud control unit and a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. MEDICAID FRAUD CONTROL UNIT STUDY - REPORT TO LEGISLATIVE MANAGEMENT. During the 2017-18 interim, the department of human services, with the cooperation of the governor and the attorney general, shall study the feasibility and desirability of establishing a Medicaid fraud control unit. Before August 1, 2018, the department of human services shall report to the legislative management the outcome of this study, together with any legislation required to implement the recommendations.

Approved March 16, 2017

Filed March 16, 2017

CHAPTER 335

HOUSE BILL NO. 1135

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsections 5 and 10 of section 39-01-15, section 50-06.1-16, subsection 1 of section 54-07-01.2, and section 54-44.3-20 of the North Dakota Century Code, relating to consolidating the committee on employment of people with disabilities into the state rehabilitation council and updating the categories of positions in the state service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁸ **SECTION 1. AMENDMENT.** Subsections 5 and 10 of section 39-01-15 of the North Dakota Century Code are amended and reenacted as follows:

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the ~~employment of people with disabilities~~state rehabilitation council fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of human services for use by the ~~committee on employment of people with disabilities~~state rehabilitation council to accomplish the ~~committee's~~council's statutory duties provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the individual to whom the certificate was issued is entitled to a replacement. The individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.
10. An individual may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the director to a mobility-impaired individual. A mobility-impaired individual may not permit the use of a certificate issued under this section by an individual who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired individual. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the individual operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for a mobility-impaired individual without a mobility-impaired certificate for the purpose of loading and unloading a mobility-impaired individual. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars must be imposed. Notwithstanding section

¹⁵⁸ Section 39-01-15 was also amended by section 1 of House Bill No. 1211, chapter 257.

29-27-02.1, fifty percent of the fee imposed and collected under this subsection is appropriated on a continuing basis to the local committee on persons with disabilities, if one exists in the city in which the violation occurred, state rehabilitation council for the development of job competitive and integrated employment opportunities for disabled individuals in the community.

SECTION 2. AMENDMENT. Section 50-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-06.1-16. Committee on employment of people with disabilities -- Appointment -- Expenses -- Director -- Duties -- Annual report State rehabilitation council.

1. There is established a committee on employment of people with disabilities state rehabilitation council in accordance with section 105 of the Rehabilitation Act of 1973 [29 U.S.C. 725].
 - a. The governor shall appoint four members of the public to serve as committee members with terms of three years, staggered so the terms of at least one but no more than two members expire July first of each year:
 - (1) The executive director of the North Dakota association of community providers or a designee of the director;
 - (2) One community employer representative;
 - (3) One individual with a disability; and
 - (4) One family member of an individual with a disability.
 - b. The following five individuals shall serve on the committee as ex officio members:
 - (1) The director of the department of commerce division of workforce development, or the director's designee;
 - (2) The director of the department of human services division of vocational rehabilitation, or the director's designee;
 - (3) The superintendent of public instruction's director of special education, or the director's designee;
 - (4) The director of the protection and advocacy project, or the director's designee; and
 - (5) The head of the department of human services developmental disabilities programs, as identified by the executive director of the department of human services.
 - c. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term.
2. The public members of the committee are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their

~~official duties in amounts provided by law for other state officers and employees.~~

3. ~~The goal of the committee is to remove barriers in reaching and identify how to further the goal of public and private employers considering competitive and integrated employment as the first option when supporting individuals with disabilities who are of working age to obtain employment. As used in this section:~~
 - a. ~~"Competitive employment" means work in the competitive labor market which is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by an individual who does not have a disability.~~
 - b. ~~"Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with individuals who do not have a disability, other than individuals who do not have a disability who are providing services to those applicants or eligible individuals, to the same extent that individuals without a disability in comparable positions interact with others.~~
4. ~~The committee~~state rehabilitation council:
 - a. ~~At the call of the chairman, shall meet at least quarterly~~Shall fulfill the duties outlined in section 105 of the Rehabilitation Act of 1973 [29 U.S.C. 725].
 - b. Shall collaborate, coordinate, and improve employment outcomes for working-age adults with disabilities, including:
 - (1) Reviewing and aligning policies, procedures, eligibility, and enrollment and planning for services for individuals, with the objective of increasing opportunities for community employment for North Dakotans with disabilities.
 - (2) Developing cross-agency tools to document eligibility, order of selection, assessment, and planning for services for individuals with disabilities.
 - (3) Identifying best practices, effective partnerships, sources of available federal funds, opportunities for shared services among existing providers, and means to expand model programs to increase community employment opportunities for individuals with disabilities.
 - (4) Identifying and addressing areas where sufficient support is not currently available or where additional options are needed to assist individuals with disabilities to work in competitive employment in integrated settings.
 - (5) Establishing interagency agreements to improve coordination of services and allow for data sharing as appropriate to assist individuals with disabilities.

(6) Setting benchmarks for improving community employment outcomes and services for individuals with disabilities.

~~e. Before January first of each year, shall issue an annual report. The committee shall submit the annual report to the governor and the legislative management. The report must detail the committee's activities, the committee's goals, and the progress the committee has made in reaching these goals. State agencies shall cooperate with the committee on the creation and dissemination of the annual report. The annual report must include identification of barriers to achieving the committee's goals and must include identified strategies and policies that can help the committee realize its goals.~~

5-3. The department of human services division of vocational rehabilitation shall provide the ~~committee~~estate rehabilitation council with administrative services.

¹⁵⁹ **SECTION 3. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 2-05-01, 4.1-05-02, 4.1-26-02, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, ~~50-06.1-16,~~ 54-34.3-10, 54-54-02, 55-01-01, 61-02-04, and 61-28-03, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:

- a. The aeronautics commission.
- b. The milk marketing board.
- c. The dairy promotion commission.
- d. The state banking board.
- e. The state credit union board.
- f. The advisory board of directors to the Bank of North Dakota.
- g. The pardon advisory board.
- h. The state parole board.
 - i. The state board of public school education.
 - j. The education standards and practices board.
 - k. The board of trustees of the teachers' fund for retirement.
 - l. The state game and fish advisory board.
- m. The health council.

¹⁵⁹ Section 54-07-01.2 was also amended by section 57 of Senate Bill No. 2327, chapter 199.

- n. The air pollution control advisory council.
- o. The board of animal health.
- p. The administrative committee on veterans' affairs.
- q. The committee on aging.
- ~~r. The committee on employment of people with disabilities.~~
- ~~s. The commission on the status of women.~~
- ~~t.s.~~ The North Dakota council on the arts.
- ~~u.t.~~ The state historical board.
- ~~v.u.~~ The state water commission.
- ~~w.v.~~ The state water pollution control board.

SECTION 4. AMENDMENT. Section 54-44.3-20 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-20. Categories of positions in the state service.

All positions in the state service are included in the classified service except:

1. Each official elected by popular vote and each person appointed to fill vacancies in an elective office, one principal assistant, and one private secretary.
2. Members of boards and commissions required by law.
3. Administrative heads of departments required by law, other than the superintendent of North Dakota vision services - school for the blind, the superintendent of the school for the deaf, and the state librarian.
4. Officers and employees of the legislative branch of government.
5. Members of the judicial branch of government of the state of North Dakota and their employees and jurors.
6. Persons temporarily employed in a professional or scientific capacity as consultants or to conduct a temporary and special inquiry, investigation, or examination for the legislative branch of government or a department of the state government.
7. Positions deemed to be inappropriate to the classified service due to the special nature of the position as determined by the division and approved by the board.
8. Employees of the institutions of higher education under the control of the state board of higher education.
9. Members and employees of occupational and professional boards.

10. Officers and employees of the North Dakota mill and elevator association.
11. ~~The director of the committee on employment of people with disabilities of the department of human services.~~
- ~~12.~~ Positions referred to under law as serving at the pleasure of or at the will of the appointing authority.
- ~~13.~~12. Licensed teachers engaged in teaching at the North Dakota youth correctional center, North Dakota vision services - school for the blind, and the school for the deaf.
- ~~14.~~13. Officers of workforce safety and insurance.
- ~~15.~~14. Officers and employees of the department of commerce.
- ~~16.~~15. Attorneys employed by the insurance commissioner.
- ~~17.~~16. Engineers, engineering technicians, and geologists employed by the director of mineral resources.

Approved March 2, 2017

Filed March 3, 2017

CHAPTER 336

HOUSE BILL NO. 1119

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-06.2-10 and 50-24.7-02 of the North Dakota Century Code, relating to collection of overpayments for service payments for elderly and disabled program and expanded service payments for elderly and disabled program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-10. Service payments for elderly and disabled program eligibility.

1. The state agency may not require an individual to apply for services under chapter 50-24.1 as a condition of being eligible to apply for services under the service payments for elderly and disabled program:
 - a. If the individual's estimated monthly home and community-based services benefits, excluding the cost of case management, are between the income level established in section 50-24.1-02.6 and the lowest level of the fee schedule for services under this chapter; or
 - b. If the individual is receiving a service that is not available under chapter 50-24.1.
2. The home and community-based services case manager shall notify the state agency upon use of an exception authorized under subsection 1.
3. An overpayment, whether resulting from an eligible individual's or eligible individual's legal representative's concealment, misrepresentation, or fraud, or from assistance granted pending a decision on an appeal adverse to the appellant, and whenever made, is subject to recovery by the state agency. An overpayment may be collected from any person that benefited from, or that was responsible for, the overpayment. A statute of limitations or similar statute or the doctrine of laches does not bar a claim under this chapter.

SECTION 2. AMENDMENT. Section 50-24.7-02 of the North Dakota Century Code is amended and reenacted as follows:

50-24.7-02. Powers and duties of the department.

The department shall:

1. ~~Administer~~The department shall administer expanded service payments for elderly and disabled and supervise and direct county agencies in the administration of expanded service payments for elderly and disabled.

2. ~~Pay~~The department shall pay qualified service providers at rates determined by the department, within limits of legislative appropriation, for the provision of the following services provided to eligible individuals:
 - a. Adult day care;
 - b. Adult family foster care;
 - c. Case management;
 - d. Chore services;
 - e. Family home care;
 - f. Homemaker services;
 - g. Nonmedical transportation;
 - h. Respite care; and
 - i. Other services the department determines to be essential and appropriate to sustain an individual in the individual's home and community and to delay or prevent institutional care.
3. ~~Take~~The department shall take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.
4. An overpayment, whether resulting from an eligible beneficiary's or eligible beneficiary's legal representative's concealment, misrepresentation, or fraud, or from assistance granted pending a decision on an appeal adverse to the appellant, and whenever made, is subject to recovery by the department. An overpayment may be collected from any person that benefited from, or that was responsible for, the overpayment. A statute of limitations or similar statute or the doctrine of laches does not bar a claim under this chapter.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 337

HOUSE BILL NO. 1085

(Representative D. Anderson)
(Senator Mathern)

AN ACT to create and enact a new section to chapter 50-06.4 of the North Dakota Century Code, relating to the creation of a brain injury advisory council; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06.4 of the North Dakota Century Code is created and enacted as follows:

Brain injury advisory council.

1. The governor shall appoint at least five, but no more than nine, members to serve on the brain injury advisory council as follows:
 - a. One brain injury survivor, nominated by the council;
 - b. One family member of a brain injury survivor, nominated by the council;
 - c. At least one service provider who provides services to brain injury survivors, nominated by the council;
 - d. An individual representing the Indian affairs commission, nominated by the Indian affairs commission; and
 - e. At least one individual representing a religious, charitable, fraternal, civic, educational, legal, veteran, welfare, or professional group or organization.
2. The speaker of the house of representatives shall appoint one member of the house of representatives and the president pro tempore of the senate shall appoint one member of the senate to serve as members of the council. Each legislative member of the council is entitled to receive compensation from the legislative council for each day spent in meetings of the council and for reimbursement for related travel and other necessary expenses in the amounts provided by law for other state officers.
3. Each of the following entities shall appoint a representative to serve as a nonvoting member of the council who serves at the pleasure of the appointing entity:
 - a. Protection and advocacy project, one representative;
 - b. State department of health, one individual representing injury prevention and one representative representing emergency medical services and trauma;

- c. Department of human services, one individual representing behavioral health, one individual representing Medicaid, and one individual representing vocational rehabilitation; and
 - d. Department of public instruction, one representative.
4. The governor may appoint an individual representing stroke health to serve as a nonvoting member of the council who serves at the pleasure of the governor.
 5. A voting advisory council member appointed by the governor may not serve more than two consecutive four-year terms on the council.
 6. A council member appointed under subdivision a or b of subsection 1 is entitled to receive from the department reimbursement for expenses as provided by law for state officers and per diem compensation as determined by the department if the member is attending meetings or performing duties directed by the council.
 7. The council shall elect a chairman and vice chairman from the voting membership of the council and shall elect a secretary from the voting or nonvoting membership of the council. The council shall meet quarterly. A majority of the voting members of the council constitutes a quorum. The council shall adopt bylaws.
 8. The council shall advise the department and shall participate in activities to improve the quality of life for an individual with brain injury and the individual's family through brain injury awareness, prevention, research, education, collaboration, support services, and advocacy.
 9. The department shall provide the council with administrative support services.

SECTION 2. APPLICATION. The governor shall stagger the initial terms of the brain injury advisory council so approximately half of the initial appointments made by the governor serve two-year terms and the remainder of the initial appointments serve four-year terms. For the initial appointments to the advisory council, the department of human services shall submit nominees in place of the council.

Approved April 17, 2017

Filed April 17, 2017

CHAPTER 338

HOUSE BILL NO. 1315

(Representatives Kreidt, Devlin, Seibel, Weisz)
(Senator J. Lee)

AN ACT to amend and reenact section 50-24.4-17 of the North Dakota Century Code, relating to adjustments of nursing home rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-17 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-17. Adjustments and reconsideration procedures.

1. Rate adjustments may be made to correct errors subsequently determined and must also be retroactive to the beginning of the facility's rate year except with respect to rates paid by private-paying residents. Any adjustments that result in a cumulative change of more than ~~twenty-five cents~~ one dollar per day from the desk rate will be included in the next subsequent cost report to the extent not corrected by a rate adjustment made pursuant to this subsection.
2. Any requests for reconsideration of the rate must be filed with the department's medical services division for administrative consideration within thirty days of the date of the rate notification.

Approved March 22, 2017

Filed March 22, 2017

CHAPTER 339

HOUSE BILL NO. 1118

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 7 of section 50-24.5-01 of the North Dakota Century Code, relating to the definition of eligible beneficiary for the aid to aged, blind, and disabled persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
(2) Is at least eighteen years of age and is disabled or blind;
 - b. (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or
(2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02;
 - c. Meets the requirements of section 23-09.3-08.1;
 - d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, ~~which require care in a licensed adult family foster care home or an assisted living facility;~~ or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
 - e. Is determined to be eligible pursuant to rules adopted by the department.

Approved March 2, 2017

Filed March 3, 2017

CHAPTER 340

HOUSE BILL NO. 1120

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 3 of section 50-24.6-04 of the North Dakota Century Code, relating to the prior authorization program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~a. Except for individuals twenty-one years of age and older, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, or brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, in the aggregate, or generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, the department may not prior authorize the following medication classes:~~
 - a. (1) Antipsychotics;
 - b. (2) Antidepressants;
 - c. (3) Anticonvulsants;
 - d. (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - e. (5) Antineoplastic agents, for the treatment of cancer; and
 - f. (6) Stimulant medication used for the treatment of attention deficit disorder and attention deficit hyperactivity disorder.
- b. For individuals under twenty-one years of age, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, in the aggregate, or generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, the department may not prior authorize the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;
 - (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, for the treatment of cancer; and

- (6) Stimulant medication used for the treatment of attention deficit hyperactivity disorder.
- c. The restrictions of subdivision b do not apply for individuals under twenty-one years of age, who have five or more concurrent prescriptions for psychotropic medications.
- d. Prior authorization for individuals under twenty-one years of age is required for five or more concurrent prescriptions for antipsychotics, antidepressants, anticonvulsants, benzodiazepines, mood stabilizers, sedative, hypnotics, or medications used for the treatment of attention deficit hyperactivity disorder. The department shall grant authorization to exceed the limits after a prescriber requesting authorization consults with a board certified pediatric psychiatrist approved by the department.

Approved April 18, 2017

Filed April 18, 2017

CHAPTER 341

SENATE BILL NO. 2206

(Senators Bekkedahl, Burckhard, Cook)
(Representatives Dockter, Nathe, Weisz)

AN ACT to create and enact chapter 50-34 and a new section to chapter 57-20 of the North Dakota Century Code, relating to the transition of funding responsibility for county social services from the counties to the state and a credit against payments in lieu of taxes paid by centrally assessed companies; to amend and reenact sections 11-23-01, 50-01.2-03.2, 50-06-05.8, 50-06-20.1, and 50-06.2-04, subsection 3 of section 57-15-01.1, section 57-15-06.7, and subdivision c of subsection 1 of section 57-20-07.1 of the North Dakota Century Code, relating to county and multicounty social service board budgets, the human service grant program, county general fund levy limitations, and property tax statements; to suspend chapter 50-03 and sections 50-06-20.1 and 50-06.2-05 of the North Dakota Century Code, relating to county human services funds, the human services grant program, and county human services levy authority; to repeal section 57-20-07.2 of the North Dakota Century Code, relating to the state-paid property tax relief credit; to provide for a report to the legislative management; to provide for a legislative management study; to provide an appropriation; to provide for a transfer; to provide an exemption; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

11-23-01. Officers required to furnish commissioners with departmental budget.

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.

2. a. ~~The departmental budget submitted by the county social service board in 2015 for the 2016 budget may not exceed an amount determined using the departmental budget submitted in 2014 by the county social service board as a starting point, subtracting the reduction in the county's social service funding responsibility for 2014 derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services, and applying to the resulting amount the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year 2015. For purposes of this subdivision, the reduction in the county's social service funding responsibility derived from transferring the county social service~~

costs identified in this subdivision from the county social service board to the department of human services includes the following:

- (1) Foster care and subsidized adoption costs that would have been paid by the county after December 31, 2015;
 - (2) The county's share of grant costs for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services which would have been paid by the county after December 31, 2015;
 - (3) The county's share of the costs for service payments to the elderly and disabled which would have been paid by the county after December 15, 2015;
 - (4) The county's share of salary and benefits for family preservation services pursuant to section 50-06-05.8 which would have been paid by the county after December 31, 2015;
 - (5) The county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program which would have been paid by the county after December 31, 2015; and
 - (6) The computer processing costs which would have been paid by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.
- b. The departmental budget submitted by the county social service board in 2016 for the 2017 budget may not exceed an amount determined using the 2015 departmental budget as a starting point and applying to that amount the percentage salary and benefits increase provided by legislative appropriations for state employees for 2016.
- c. The budget must include a statement identifying the total savings to the county as shown by a reduction in the amounts that otherwise would have been paid by the county to the department of human services for the costs identified in subdivision a. The department of human services shall determine the appropriate amount of what each county's costs would have been to help identify each county's total savings.
- The county share of the human service budget must be funded entirely from the county's property tax levy for that purpose and the county may not use funds from any other source to supplement the human services budget, with the exception that the county may make use of the identifiable amount of other sources the county has used to supplement its human services budget for 2015 and the county may use grant funds that may be available to the county under section 50-06-20.1.
- d. The department of human services shall develop a process to review a request from a county social service board for any proposed increase in staff needed as a result of significantly increased caseloads for state-funded human services programs, if the increase in staff would result

~~in the county exceeding the budget limitation established under this subsection. As part of its review process, the department shall review countywide caseload information and consider the option of multicounty sharing of staff. If the department approves a request for a proposed increase in staff, the county budget limitation established under subdivision b may be increased by the amount determined necessary by the department to fund the approved additional staff.~~

SECTION 2. AMENDMENT. Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

11-23-01. Officers required to furnish commissioners with departmental budget.

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.
2. a. The departmental budget submitted by the county social service board in ~~2015~~2019 for the ~~2016~~2020 budget may not exceed an amount determined using the departmental budget submitted in ~~2014~~2016 by the county social service board as a starting point, subtracting the reduction in the county's social service funding responsibility for ~~2014~~2016 derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services, and applying to the resulting amount the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year ~~2015~~2019. For purposes of this subdivision, the reduction in the county's social service funding responsibility derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services includes the following:
 - (1) Foster care and subsidized adoption costs that would have been paid by the county after December 31, 2015;
 - (2) The county's share of grant costs for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services which would have been paid by the county after December 31, 2015;
 - (3) The county's share of the costs for service payments to the elderly and disabled which would have been paid by the county after December 15, 2015;
 - (4) The county's share of salary and benefits for family preservation services pursuant to section 50-06-05.8 which would have been paid by the county after December 31, 2015;

- (5) The county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program which would have been paid by the county after December 31, 2015; and
- (6) The computer processing costs which would have been paid by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.
- b. ~~The departmental budget submitted by the county social service board in 2016 for the 2017 budget may not exceed an amount determined using the 2015 departmental budget as a starting point and applying to that amount the percentage salary and benefits increase provided by legislative appropriations for state employees for 2016.~~
- e. ~~The budget must include a statement identifying the total savings to the county as shown by a reduction in the amounts that otherwise would have been paid by the county to the department of human services for the costs identified in subdivision a. The department of human services shall determine the appropriate amount of what each county's costs would have been to help identify each county's total savings.~~

The county share of the human service budget must be funded entirely from the county's property tax levy for that purpose and the county may not use funds from any other source to supplement the human services budget, with the exception that the county may make use of the identifiable amount of other sources the county has used to supplement its human services budget for 2015 and the county may use grant funds that may be available to the county under section 50-06-20.1.

- d-c. The department of human services shall develop a process to review a request from a county social service board for any proposed increase in staff needed as a result of significantly increased caseloads for state-funded human services programs, if the increase in staff would result in the county exceeding the budget limitation established under this subsection. As part of its review process, the department shall review countywide caseload information and consider the option of multicounty sharing of staff. If the department approves a request for a proposed increase in staff, the county budget limitation established under subdivision b may be increased by the amount determined necessary by the department to fund the approved additional staff.

SECTION 3. AMENDMENT. Section 50-01.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-03.2. County duties –~~Financing in exceptional circumstances.~~

4. Each county social service board shall administer, under the direction and supervision of the department:
- a-1. Locally administered economic assistance and social service programs;
- b-2. Replacement programs with substantially similar goals, benefits, or objectives; and

- ~~e.3. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.~~
- ~~2. From the abstract of tax list prepared pursuant to section 57-20-04, each county shall annually provide the department of human services a report of the total mills levied for human service purposes pursuant to sections 50-03-01, 50-03-06, and 50-06.2-05, and the countywide value of a mill in each county. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:~~
- ~~a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;~~
 - ~~b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;~~
 - ~~c. Totalling the amounts determined under subdivision b for all counties entitled to a distribution;~~
 - ~~d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and~~
 - ~~e. Multiplying that decimal fraction times one-half of the biennial appropriation.~~
- ~~3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which the percentage of that county's average total supplemental nutrition assistance program caseload for the previous fiscal year which reside on federally recognized Indian reservation lands is ten percent or more. The reimbursement must be such that:~~
- ~~a. An affected county's actual direct costs and indirect costs allocated based on a percentage of each county's direct economic assistance and social services costs for locally administered economic assistance programs will be reimbursed at the percentage of that county's average total supplemental nutrition assistance program caseload for the previous state fiscal year which reside on federally recognized Indian reservation land not to exceed ninety percent;~~
 - ~~b. The affected counties will receive quarterly payments based on the actual county direct and indirect costs, as provided in subdivision a, for the previous state fiscal year;~~
 - ~~c. At the end of each fiscal year the actual quarterly payments paid must be reconciled to the current year of calculation of actual direct and indirect costs as provided in subdivision a and supplemental nutrition assistance program caseload and counties must be compensated accordingly in the first quarter of the new fiscal year; and~~

- d. The reimbursement will be calculated for each county and reported to the county social service board prior to September first.

SECTION 4. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume certain costs of certain economic assistance and social service programs.

~~Notwithstanding section 50-06.2-05, or any other provision in title 50 to the contrary, and in addition to the programs identified in section 50-06-20, the~~The department of human services shall pay the ~~local~~each service area's expenses of administration incurred by a county~~for administering economic assistance and social service programs for calendar years after December 31, 2015, for family preservation programs; a county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program incurred after December 31, 2015; and the computer processing costs incurred by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996~~2017, based on the formula payment amount calculated for each service area under chapter 50-34.

SECTION 5. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume certain costs of certain social service programs.

Notwithstanding section 50-06.2-05, or any other provision in title 50 to the contrary, and in addition to the programs identified in section 50-06-20, the department of human services shall pay the local expenses of administration incurred by a county after December 31, ~~2015~~2019, for family preservation programs; a county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program incurred after December 31, ~~2015~~2019; and the computer processing costs incurred by the county after December 31, ~~2015~~2019, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.

SECTION 6. AMENDMENT. Section 50-06-20.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-20.1. Human services grant program - Eligible counties - Reports.

1. ~~If the authority for counties to use emergency expenditures to address an emergency created by unusual and unanticipated demands on the counties' human services fund under chapter 50-03 is eliminated, the~~The department shall ~~establish~~administer a grant program to assist certain counties. An eligible county is one that historically has utilized the emergency expenditures process set forth in chapter 50-03 and which is adjacent to or part of an Indian reservation in this state, which contains Indian trust lands within the service area of a federally recognized Indian tribe which are occupied by enrolled members of that tribe, or which includes the state hospital created pursuant to subsection 8 of section 12 of article IX of the Constitution of North Dakota.

2. The grant program established in this section must be implemented through rulemaking under chapter 28-32. The department ~~may adopt emergency rules, without application of the grounds for emergency rulemaking otherwise required under section 28-32-03, to set out the policies and procedures for the disbursement of grants and~~ may not award more than one million nine hundred thousand dollars during the first year of a biennium, and no more than two million dollars during the second year of a biennium. The department shall notify a county of its approved funding no later than September first of each year of the biennium. The department shall issue an annual payment to counties receiving funds under this chapter in January of each year of the biennium.
3. The department shall report to the budget section annually and to the appropriations committees of the ~~sixty-fifth~~sixty-seventh legislative assembly and each succeeding legislative assembly on the funding approved under this section.

SECTION 7. AMENDMENT. Section 50-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-04. Powers and duties of county agencies.

Each county agency has the following powers and duties under this chapter:

1. To administer comprehensive human services programs for individuals and families at the county level in conformity with state and federal requirements under the direction and supervision of the state agency.
2. To publish and provide to the state agency a county human services plan which must include the following:
 - a. A statement of the goals of county human services programs in the county.
 - b. Methods used to identify persons in need of services and the social problems to be addressed by the county human services programs.
 - c. A description of each county human service proposed and identification of the agency or person proposed to provide the service.
 - d. The amount of money proposed to be allocated to each service.
 - e. An agreement to make available those human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title.

The date of submission of the county human services plan to the state agency must be determined so that the plan is coordinated with the proposed and final comprehensive human services plan.

3. To make available the human services detailed in the comprehensive human services plan which the county agency has included in the approved county plan and to provide such other human services as the county agency determines essential in effectuating the purposes of this chapter within the county. To the extent funding is available under section 50-06.2-03 and chapter 50-24.1, the county plan must include the services enumerated in

those sections. The county agency shall make these services available to any individual requesting service and determined eligible on the basis of a functional assessment conducted in accordance with state and federal laws and regulations. The individual shall pay for the services in accordance with a fee scale based on family size and income. The county agency may contract with any qualified service provider in its provision of those enumerated services.

4. To submit annually to the board of county commissioners a budget containing an estimate and supporting data, setting forth the county funds needed to carry out the provisions of this chapter.

SECTION 8. Chapter 50-34 of the North Dakota Century Code is created and enacted as follows:

50-34-01. State-paid economic assistance and social service pilot program - Application - Report.

1. The department of human services shall administer a statewide pilot program for state funding of staffing and administrative costs related to the administration of economic assistance and social service programs.
2. Payments must be distributed to service areas pursuant to the formula in section 50-34-04 with the first formula payment distributions commencing in January 2018.
3. Services areas shall cooperate with the department of human services to adopt administrative and operational cost-savings methodologies and determine options for consolidations.
4. The director shall appoint a committee to study the operation of the pilot program and develop a plan for the permanent implementation of the formula established in section 50-34-04.
5. Before November 1, 2018, the department of human services shall report to the legislative management on the status of the pilot program and the development of a plan for permanent implementation of the formula established in section 50-34-04. The implementation plan must include recommendations for caseloads and outcomes for social services, designated child welfare services, and economic assistance; considerations regarding the delivery of county social services to ensure appropriate and adequate levels of service continue; options for efficiencies and aggregation; analysis of the potential reduction in social service offices, organizations, and staff due to consolidations; the feasibility and desirability of, and potential timeline for, transitioning county social service staff to the department of human services; and considerations for oversight and chain of command within social services and human services. The implementation plan must be submitted to the sixty-sixth legislative assembly as part of the department of human services budget request and identify the estimated biennial cost of the plan.

50-34-02. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Base year" means calendar year 2015.

2. "Case-month" means the provision of economic assistance or social services to one individual for the period of one month or the provision of energy assistance through the low income home energy assistance program for the period beginning October first of each year and ending May thirty-first of the following year.
3. "Director" means the executive director of the department of human services or the executive director's designee.
4. "Service area" means a county or consolidated group of counties administering economic assistance and social service programs within a designated area.

50-34-03. Formula payments to service areas - Distributions by the director.

1. The director shall calculate the total formula payment for each service area pursuant to section 50-34-04 for each calendar year based on each service area's most recently available case-month data. The director shall notify each service area of the amount of its formula payment for calendar year 2018 on or before August 15, 2017, and for calendar year 2019 on or before June 1, 2018.
2. The director shall distribute fifty percent of the amount of each service area's formula payment determined under subsection 1, within the limits of legislative appropriation, on or before January tenth.
3.
 - a. By June first of each year, the director shall recalculate the total formula payment for each service area pursuant to section 50-34-04 for the current calendar year based on each service area's most recently available case-month data.
 - b. If the recalculated formula payment results in an increase of five percent or less or a decrease of five percent or less as compared to the formula payment determined under subsection 1, the director shall distribute fifty percent of the amount of each service area's formula payment determined under subsection 1, within the limits of legislative appropriation, on or before June fifteenth.
 - c. If the recalculated formula payment results in an increase of more than five percent as compared to the formula payment determined under subsection 1, the director shall calculate the remainder of each service area's formula payment by subtracting one hundred five percent of the amount determined under subsection 1 from the amount determined under subdivision a and add the resulting amount to the amount distributed under subsection 2. The director shall distribute the remainder of each service area's formula payment as determined under this subdivision, within the limits of legislative appropriation, on or before June fifteenth.
 - d. If the recalculated formula payment results in a decrease of more than five percent as compared to the formula payment determined under subsection 1, the director shall calculate the remainder of each service area's formula payment by subtracting ninety-five percent of the amount determined under subsection 1 from the amount determined under subdivision a and add the resulting amount to the amount distributed under subsection 2. The director shall distribute the remainder of each

service area's formula payment as determined under this subdivision, within the limits of legislative appropriation, on or before June fifteenth.

4. For payments disbursed after calendar year 2018, the director shall subtract from a service area's June fifteenth disbursement any amount exceeding the limitation under section 50-34-05.

50-34-04. Baseline funding amounts - Calculation of formula payment.

1. The director shall calculate each service area's base year case-month totals and direct gross expenditures. A service area's direct gross expenditures include the actual amount expended within a service area in the base year for staffing and administrative costs related to the administration of economic assistance and social service programs as well as eligible federally allowable indirect costs. For purposes of this subsection, "eligible federally allowable indirect costs" means twenty-five percent of the average of the federally allowable indirect costs allocated to each service area in calendar years 2012, 2013, and 2014.
2. The director shall calculate each service area's base rate per economic assistance case-month by dividing the service area's economic assistance net expenditures by the economic assistance case-months reported for the service area in the base year. For purposes of this subsection, "economic assistance net expenditures" means the amount calculated by subtracting the amount paid to the service area in the base year for services reimbursed by medical assistance from the service area's economic assistance base year gross expenditures.
3. The director shall calculate each service area's base rate per social service case-month by dividing the service area's social service net expenditures by the social service case-months reported for the service area in the base year. For purposes of this subsection, "social service net expenditures" means the amount calculated by subtracting the amount paid to the service area in the base year for services reimbursed by medical assistance from the service area's social service base year gross expenditures.
4. The director shall calculate the total formula payment by summing the following:
 - a. The product of the service area's rate per economic assistance case-month and the service area's most recently available economic assistance caseload data.
 - b. The product of the service area's rate per social service case-month and the service area's most recently available social service caseload data.

50-34-05. Service area human services fund - Establishment - Fund balance limitations.

Each service area in this state shall maintain a fund to be known as the service area human services fund. All expenditures by the service area for the relief of the needy must be paid from the service area human services fund. If, due to unforeseen or other extenuating circumstances, a service area's formula distribution payment is not sufficient to meet the expenses of that service area, the board of county commissioners may approve a transfer from the county's general fund to the service area human services fund upon a majority vote of all members. The balance of

moneys in the fund on January first of each year may not exceed five hundred thousand dollars for a service area that had annual expenditures of two million dollars or greater in calendar year 2015 or one hundred thousand dollars for a service area that had annual expenditures of less than two million dollars in calendar year 2015.

50-34-06. Service area human services fund - Transfer.

If on January 1, 2018, the balance of a service area human services fund exceeds the limitations in section 50-34-05, the county treasurer shall transfer the amount exceeding the limitations in section 50-34-05 to the designated county general fund within that service area. A county receiving a transfer shall reduce its county general fund mill levy for taxable year 2018 by an equivalent amount. If the amount of a county's general fund mill levy is not sufficient to account for the entire required reduction, the county shall reduce an additional county-wide mill levy for taxable year 2018 to account for the remainder of the required reduction. If on January 1, 2019, the balance of a service area human services fund exceeds the limitations in section 50-34-05, the director shall reduce the service area's formula payment as directed in subsection 4 of section 50-34-03.

50-34-07. Authority to withhold funding.

Notwithstanding subsection 2 of section 50-01.2-06, if a service area fails to perform duties directed or assigned and supervised by the department of human services, the department of human services may withhold funding from the service area. The amount withheld may not exceed double the actual cost of the duty that was not performed, the per activity amount from the formula, the cost to the department of human services, or the amount of a federal penalty imposed as a result of the duty that was not performed.

50-34-08. Social services finance fund.

The social services finance fund is a special fund in the state treasury. Moneys in the fund may be used, subject to legislative appropriation, for the provision of formula payments to service areas pursuant to this chapter.

SECTION 9. AMENDMENT. Subsection 3 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.

- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
- d. ~~If the base year is a taxable year before 2013, reduced~~Reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:
 - (1) ~~The~~ the base year mill rate of the school district minus sixty mills; or
 - (2) ~~Fifty~~ fifty mills, if the base year is a taxable year before 2013.
- e. ~~#Reduced by the base year human services county levy in dollars if the base year is a taxable year before 2016,2017 the base year human services county levy in dollars must be reduced to the amount of the county social service board budget levy for the budget year as determined under section 11-23-01.~~

SECTION 10. AMENDMENT. Subsection 3 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

- 3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. ~~If the base year is a taxable year before 2013, reduced~~Reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:

- (1) ~~The~~the base year mill rate of the school district minus sixty mills; or
- (2) ~~Fifty~~fifty mills, if the base year is a taxable year before 2013.

- e. ~~If the base year is a taxable year before 2016, the base year human services county levy in dollars must be reduced to the amount of the county social service board budget levy for the budget year as determined under section 11-23-01~~increased by the highest amount received by the taxing district in a taxable year under chapter 50-34.

¹⁶⁰ **SECTION 11. AMENDMENT.** Section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties.

The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. A county supporting an airport or airport authority may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. A county levying a tax for extension work as provided in section 4-08-15 may levy a tax not exceeding two mills and if a majority of the electors of the county have approved additional levy authority under section 4-08-15, the county may levy a voter-approved tax not exceeding an additional tax of two mills.
3. A county levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one-quarter of one mill, except that if sixty percent of the qualified electors voting on the question of a levy limit increase as provided in section 11-11-53 shall approve, the tax levy limitation may be increased to not exceeding three-quarters of one mill.
4. A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than ten years at a mill rate not exceeding five mills.
5. A county levying a tax for county roads and bridges as provided in section 24-05-01 may levy a tax at a tax rate not exceeding ten mills. When authorized by a majority of the qualified electors voting upon the question at a primary or general election in the county, the county commissioners may levy and collect an additional tax for road and bridge purposes as provided in section 24-05-01, not exceeding a combined additional tax rate of twenty mills.
6. A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.
7. A county levying a tax for a county veterans' service officer's salary, traveling, and office expenses in accordance with section 57-15-06.4 may levy a tax not exceeding two mills.

¹⁶⁰ Section 57-15-06.7 was also amended by section 11 of Senate Bill No. 2026, chapter 61.

8. A county levying a tax for capital projects under section 57-15-06.6 may levy a tax not exceeding ten mills. When authorized by a majority of the qualified electors voting upon the question of a specific capital project or projects at a primary or general election in the county, the county commissioners may levy and collect an additional voter-approved tax for capital projects under section 57-15-06.6 not exceeding a tax rate of ten mills per dollar of the taxable valuation of property in the county. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this subsection may not be effective for more than ten taxable years. Any voter-approved levy in excess of ten mills for the purposes specified in section 57-15-06.6 approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved.
9. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding two mills in a county with a population of thirty thousand or more, four mills in a county with a population under thirty thousand but more than five thousand, or six mills in a county with a population of five thousand or fewer.
10. A county levying a tax for county emergency medical service according to section 57-15-50 may levy a tax not exceeding ten mills.
11. A county levying a tax for weed control as provided in section 4.1-47-14 may levy a tax not exceeding four mills.
12. A county levying a tax for programs and activities for senior citizens according to section 57-15-56 may levy a tax not exceeding two mills.
13. Tax levies made for paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.
14. A county levying a tax for a job development authority as provided in section 11-11.1-04 may levy a tax not exceeding four mills on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority and the total of the county and city levies exceeds four mills, the county tax levy within the city levying under subsection 12 of section 57-15-10 must be reduced so the total levy in the city does not exceed four mills.
15. ~~A county levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the number of mills determined by dividing the county budget limitation in dollars as determined under section 11-23-01 by the taxable valuation of the county.~~
16. A levy for an extraordinary expenditure under section 11-11-24 approved by the electors of the county before January 1, 2015, may continue to be levied and collected under provisions of law in effect when the levy was approved and for the term it was approved by the electors. When the levy authority for an extraordinary expenditure ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund.

~~17-16.~~ Levies dedicated under section 57-15-59 before January 1, 2015, for lease payments may be continued to be levied and collected for the duration of the lease. When the levy authority for lease payments ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund. A lease for county facilities effective after December 31, 2014, is subject to the capital projects levy limitations of section 57-15-06.6.

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 12. AMENDMENT. Subdivision c of subsection 1 of section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. Provide information identifying the property tax savings provided by the state of North Dakota. The tax statement must include a line item that is entitled "legislative tax relief" and identifies the dollar amount of property tax savings realized by the taxpayer under chapter 15.1-27 ~~and under section 57-20-07.2 for taxable years before 2017, and chapter 50-34 for taxable years after 2016.~~
- (1) For purposes of this subdivision, legislative tax relief ~~under chapter 15.1-27~~ is determined by multiplying the taxable value for the taxable year for each parcel shown on the tax statement by the number of mills of mill levy reduction grant under chapter 57-64 for the 2012 taxable year plus the number of mills determined by subtracting from the 2012 taxable year mill rate of the school district in which the parcel is located the lesser of:
- (1) (a) Fifty mills; or
- (2) (b) The 2012 taxable year mill rate of the school district minus sixty mills.
- (2) Legislative tax relief under chapter 50-34 is determined by multiplying the taxable value for the taxable year for each parcel shown on the tax statement by the number of mills determined by dividing the amount calculated in subsection 1 of section 50-34-03 by the taxable value of taxable property in the county for the taxable year.

SECTION 13. AMENDMENT. Subdivision c of subsection 1 of section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. Provide information identifying the property tax savings provided by the state of North Dakota. The tax statement must include a line item that is entitled "legislative tax relief" and identifies the dollar amount of property tax savings realized by the taxpayer under chapter 50-34 for taxable years 2017 and 2018 and under chapter 15.1-27 ~~and under section 57-20-07.2.~~ For purposes of this subdivision, legislative tax relief under chapter 15.1-27 is determined by multiplying the taxable value for the taxable year for each parcel shown on the tax statement by the number of mills of mill levy reduction grant under chapter 57-64 for the 2012 taxable year plus the number of mills determined by subtracting from the 2012 taxable year mill rate of the school district in which the parcel is located the lesser of:

(1) Fifty mills; or

(2) The 2012 taxable year mill rate of the school district minus sixty mills.

SECTION 14. A new section to chapter 57-20 of the North Dakota Century Code is created and enacted as follows:

Centrally assessed company credit against payments in lieu of taxes.

1. The owner, operator, or lessee of transmission lines, for which payments in lieu of property taxes are assessed by the state board of equalization under section 57-06-17.3, is entitled to a credit against tax in the amount provided in subsection 3. The credit for each transmission company must be allocated to the counties in the same manner as the tax collected from that company is allocated.
2. The owner, operator, or lessee of electric transmission or distribution property, for which payments in lieu of property taxes are assessed by the state board of equalization under sections 57-33.2-02 or 57-33.2-03, is entitled to a credit against the transmission or distribution tax in the amount provided in subsection 3. The credit for each transmission or distribution company must be allocated and distributed to counties in the same manner as the tax collected from that company is allocated.
3. The amount of credit is determined by multiplying the company's assessed tax by a fraction, the numerator of which is the total of all formula payments calculated for the subsequent calendar year under section 50-34-03 and the denominator of which is the total statewide ad valorem property tax levied in the prior taxable year.
4. The tax commissioner shall annually calculate the amount of credit to which a company is entitled under this section.

SECTION 15. SUSPENSION. Chapter 50-03 and section 50-06-20.1 of the North Dakota Century Code are suspended.

SECTION 16. SUSPENSION. Section 50-06.2-05 of the North Dakota Century Code is suspended.

SECTION 17. REPEAL. Section 57-20-07.2 of the North Dakota Century Code is repealed.

SECTION 18. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX SYSTEM. During the 2017-18 interim, the legislative management shall consider studying the property tax system, with emphasis on the feasibility and desirability of providing property tax reform and relief. The study must include consideration of all property classifications and taxing districts and evaluate historical fluctuations in property values, the transparency of the property tax system, the processes and procedures available to taxpayers to contest valuations and assessments, the manner in which property tax information is provided to taxpayers, the process of determining taxing district budgets, and taxpayer participation and input in the property tax system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 19. FUNDING FOR STATE-PAID ECONOMIC ASSISTANCE AND SOCIAL SERVICES PILOT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES. A total of \$160,700,000 is available to the department of human services for the state-paid economic assistance and social services pilot program for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

1. There is appropriated out of any moneys in the social services finance fund in the state treasury, not otherwise appropriated, the sum of \$134,700,000, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of the state-paid economic assistance and social services pilot program for the biennium beginning July 1, 2017, and ending June 30, 2019.
2. The department of human services shall also use \$26,000,000 from the department of human services' general fund appropriation in House Bill No. 1012, as approved by the sixty-fifth legislative assembly, for the purpose of defraying the expenses of the state-paid economic assistance and social services pilot program for the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 20. TRANSFER - TAX RELIEF FUND TO SOCIAL SERVICES FINANCE FUND. The office of management and budget shall transfer the sum of \$134,700,000 from the tax relief fund to the social services finance fund during the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 21. EXEMPTION - BUDGET ALLOTMENTS. The sum of \$26,000,000 appropriated from the general fund to the department of human services for the state-paid economic assistance and social services pilot program in House Bill No. 1012, as approved by the sixty-fifth legislative assembly, is not subject to the provisions of section 54-44.1-12, and the director of the office of management and budget may not include this amount in calculations used to determine transfers from the budget stabilization fund under section 54-27.2-03 for the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 22. EFFECTIVE DATE - EXPIRATION DATE. Sections 9, 11, 12, and 16 of this Act are effective for the first two taxable years beginning after December 31, 2016, and are thereafter ineffective. Sections 14 and 17 of this Act are effective for taxable years beginning after December 31, 2016. Sections 1, 3, 8, and 15 of this Act are effective August 1, 2017, through July 31, 2019, and are thereafter ineffective. Sections 4 and 7 of this Act are effective August 1, 2017, through December 31, 2019, and are thereafter ineffective. Sections 10 and 13 of this Act are effective for taxable years beginning after December 31, 2018. Sections 2 and 6 of this Act become effective on August 1, 2019. Section 5 of this Act becomes effective on January 1, 2020.

Approved April 26, 2017

Filed April 26, 2017

CHAPTER 342

SENATE BILL NO. 2163

(Senators J. Lee, Dever, Heckaman)
(Representatives K. Koppelman, Delmore, Hogan)

AN ACT to create and enact a new section to chapter 50-25.2 of the North Dakota Century Code, relating to the financial exploitation of vulnerable adults; to amend and reenact subsection 7 of section 50-25.2-01 of the North Dakota Century Code, relating to the definition of financial exploitation; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 50-25.2-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Financial exploitation" means use or receipt of services provided by the vulnerable adult without just compensation, the taking, acceptance, misappropriation, or misuse of property or resources of a vulnerable adult by means of undue influence, breach of a fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful or improper means.

SECTION 2. A new section to chapter 50-25.2 of the North Dakota Century Code is created and enacted as follows:

Civil remedy for financial exploitation - Damages - Commencement of action.

1. A vulnerable adult who has been financially exploited has a cause of action against any perpetrator and may recover damages for that exploitation. The action may be brought in a court of competent jurisdiction by:
 - a. The vulnerable adult;
 - b. The vulnerable adult's guardian or conservator;
 - c. Any person acting on behalf of the vulnerable adult with the consent of the vulnerable adult; or
 - d. The personal representative of the estate of a deceased victim.
2. An action for financial exploitation of a vulnerable adult must be proven by clear and convincing evidence. If financial exploitation is proven, the court shall award to the plaintiff actual damages, reasonable attorney's fees and costs, and reasonable fees for the services of a guardian ad litem if appointed by the court.
3. If the financial exploitation of the vulnerable adult by the perpetrator involved oppression, fraud, deception, or actual malice, the court may award exemplary damages in accordance with section 32-03.2-11.

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4. An action for damages for financial exploitation of a vulnerable adult must be commenced within six years after the plaintiff discovers or, through exercise of reasonable diligence, should have discovered the facts constituting the financial exploitation.

Approved April 10, 2017

Filed April 10, 2017

CHAPTER 343

SENATE BILL NO. 2251

(Senators Poolman, Armstrong, Myrdal)
(Representatives Roers Jones, Rohr)

AN ACT to create and enact two new sections to chapter 50-25.1 of the North Dakota Century Code, relating to substance exposed newborns; and to amend and reenact sections 50-25.1-02, 50-25.1-05, 50-25.1-06.1, and 50-25.1-09 of the North Dakota Century Code, relating to substance exposed newborns.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

50-25.1-02. Definitions.

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

1. "A person responsible for the child's welfare" means ~~a person~~ an individual who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a public or private school or child care setting.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol abuse or dependence as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.
4. "Alternative response assessment" means a child protection response involving substance exposed newborns which is designed to:
 - a. Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn;
and
 - b. Develop a plan of safe care for the substance exposed newborn.

5. "Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.
- 5-6. "Authorized agent" means the county social service board, unless another entity is designated by the department.
- 6-7. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.
- 7-8. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
- 8-9. "Department" means the department of human services or its designee.
- 9-10. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.
- 10-11. "Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department shall coordinate the organization of local child protection teams on a county or multicounty basis.
- 11-12. "Near death" means an act which, as certified by a physician, places a child in serious or critical condition.
- 12-13. "Neglected child" means a deprived child as defined in chapter 27-20.
- 13-14. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery of the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.

- 44-15. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- 45-16. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.
17. "Substance exposed newborn" means an infant younger than twenty-eight days of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum disorder.

¹⁶¹ **SECTION 2. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The department, in accordance with rules adopted by the department, immediately shall initiate an assessment; or alternative response assessment or cause an assessment, of any report of child abuse or neglect including, when appropriate, the assessment or alternative response assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.
2. According to guidelines developed by the department, the department may initiate an alternative response assessment if the department determines initiation is appropriate.
3. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department and an appropriate law enforcement agency shall coordinate the planning and execution of their investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. The department or the law enforcement agency may:
 - a. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services.
 - b. Interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who

¹⁶¹ Section 50-25.1-05 was also amended by section 2 of Senate Bill No. 2116, chapter 345.

currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator.

- c. Conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.

~~3-4.~~ Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional human service center shall disclose to the department or the department's authorized agent, upon request, the records of a patient or client which are relevant to an assessment of reported child abuse or neglect.

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

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

50-25.1-06.1. Caseload standards - Reimbursement.

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

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

50-25.1-09. Immunity from liability.

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

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

Alternative response assessment - Compliance.

If an alternative response assessment is initiated as a result of a report of child abuse or neglect, a decision that services are required may not be made if the person responsible for the child's welfare complies with the resulting referred services and plan of safe care for the substance exposed newborn. The department shall

determine whether a person responsible for the child's welfare has complied with the referred services and plan of safe care for the substance exposed newborn. If the department determines a person responsible for the child's welfare has not complied with the referred services and plan of safe care for the substance exposed newborn, an assessment of the initial report of child abuse or neglect may be completed.

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

Alternative response assessment - Services.

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

Approved March 22, 2017

Filed March 23, 2017

CHAPTER 344

SENATE BILL NO. 2189

(Senators J. Lee, D. Larson, Meyer)
(Representatives Karls, Delmore, Holman)

AN ACT to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to the confidentiality of children's advocacy center records; and to amend and reenact subsection 3 of section 12.1-34-07 and subsection 1 of section 27-20-51 of the North Dakota Century Code, relating to reimbursement of the cost of forensic interviews and confidentiality of juvenile court records and children's advocacy center records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 12.1-34-07 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon submission of appropriate documentation, the attorney general, within the limits of legislative appropriations, shall reimburse the health care facility or a health care professional for the reasonable costs incurred in performing the medical screening and acute forensic medical examination. Beginning on April first of the final year of each biennium, the attorney general, subject to legislative appropriations, shall reimburse each accredited children's advocacy center located in the state for a forensic interview that is not reimbursable by insurance, Medicaid, or crime victims compensation.

¹⁶² **SECTION 2. AMENDMENT.** Subsection 1 of section 27-20-51 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of district court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:
 - a. The judge and staff of the juvenile court.
 - b. The parties to the proceeding or their counsel or the guardian ad litem of any party.
 - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court, which must be given a copy of the findings and order of disposition when it receives custody of the child.
 - d. Any court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, prior to the criminal case, had been a party to the proceeding in juvenile court.

¹⁶² Section 27-20-51 was also amended by section 1 of Senate Bill No. 2098, chapter 225.

- e. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4.
- f. A staff member of the division of children and family services of the department of human services or a law enforcement officer when necessary for the performance of that person's duties under section 50-11.1-06.2 or the National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
- g. An employee or agent of the department of human services when necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.
- h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.
- i. The staff of a children's advocacy center if the juvenile or a victim of the juvenile has been referred for or has received services at the children's advocacy center.

SECTION 3. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Confidentiality of children's advocacy center records.

Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, or therapy are confidential and may be released only to a person other than a law enforcement agency, the department or the department's authorized agent, or a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.

Approved April 17, 2017

Filed April 17, 2017

CHAPTER 345

SENATE BILL NO. 2116

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-25.1-03.1 and subsection 3 of section 50-25.1-05 of the North Dakota Century Code, relating to the disclosure of patient records relevant to an assessment of reported child abuse or neglect.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03.1. Photographs - X-rays - Medical tests.

Any person or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who the person or official has knowledge or reasonable cause to suspect is an abused or neglected child and, if indicated by medical consultation, cause to be performed imaging studies, laboratory tests, colposcopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images taken pursuant to this section must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any person or official required to report under this chapter. Photographs and visual images, or copies of them, must be sent to the department or the department's designee at the time the initial report of child abuse or neglect is made or as soon thereafter as possible. ~~Imaging studies or copies of the studies and copies of results of other tests conducted under this section must be provided to the department or the department's designee upon request.~~

¹⁶³ **SECTION 2. AMENDMENT.** Subsection 3 of section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional human service center, medical, dental, or mental health professional, hospital, medical or mental health facility, or health care clinic shall disclose to the department or the department's authorized agent, upon request, the records of a patient or client which are relevant to an assessment of reported child abuse or neglect or to a services required decision. The department, or the department's authorized agent, shall limit the request for records to the minimum amount of records necessary to enable a determination to be made or to support a determination of whether services are required to provide for the protection and treatment of an abused or neglected child.

Approved April 17, 2017

Filed April 17, 2017

¹⁶³ Section 50-25.1-05 was also amended by section 2 of Senate Bill No. 2251, chapter 343.

CHAPTER 346

SENATE BILL NO. 2117

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to criminal history record checks for Medicaid services applicants, providers, and staff members; to amend and reenact section 50-06-01.9 of the North Dakota Century Code, relating to criminal history record checks for job applicants, department staff, county employees, contractors, and Medicaid services applicants, providers, and staff members; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁴ **SECTION 1. AMENDMENT.** Section 50-06-01.9 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.9. Criminal history record checks.

~~In accordance with section 12-60-24, the~~ department may require criminal history record checks as the department determines appropriate for:

1. ~~Employees~~ Job applicants of the department and employees of the department upon hiring;
2. Job applicants of the county social service agencies and the department's and county social service agencies' contractors and contractors' subcontractors that may have access to federal tax information received from the United States internal revenue service through a computer match and stored in the department's eligibility system;
3. A criminal history record check conducted under subsections 1 and 2 is valid for ten years, after which the department shall require another criminal history record check on employees of the department, county social service agencies, and the department's and county social service agencies' contractors and contractors' subcontractors that may have access to federal tax information received from the United States internal revenue service through a computer match and stored in the department's eligibility system;
4. ~~Providers licensed by the department under chapter 50-12, as well as for any employees of those providers; and~~
- 3-5. Applicants for early childhood services licensure, nonlicensed holders of a self-declaration, and in-home providers under chapter 50-11.1. The department also may require criminal history record checks for new staff members of those applicants, providers of an applicant, and a provider if the provider is providing early childhood services within the provider's home; and

¹⁶⁴ Section 50-06-01.9 was also amended by section 1 of Senate Bill No. 2090, chapter 348.

6. Medicaid services applicant providers, Medicaid services providers, staff members of the applicant provider or provider, or an individual with a five percent or more direct or indirect ownership interest in the applicant provider or provider under chapter 50-24.1.

SECTION 2. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Criminal background investigation - Fingerprinting required.

1. When the department determines a criminal history record check is appropriate, a provider applicant, a provider, staff members of the applicant provider or provider, or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law.
2. The applicant provider or provider shall assure the information obtained under subsection 1 is provided to the department within thirty days of the notice date.
3. The department shall submit the information and fingerprints to the bureau of criminal investigation to determine if there is any criminal history record information regarding the applicant provider, provider, staff members of the applicant provider or provider, or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider in accordance with section 12-60-24.
4. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of response, provide the response of the federal bureau of investigation to the department. The bureau also shall provide any criminal history record information that lawfully may be made available under chapter 12-60 to the department.
5. The results of the investigations must be forwarded to the department.
6. Upon request by the applicant provider, provider, staff members of the applicant provider or provider, or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider, a law enforcement agency shall take fingerprints of individuals described in this section if the request is made for purposes of this section.
7. The applicant provider, provider, staff members of the applicant provider or provider, or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check.
8. The department may charge a fee not to exceed the actual cost for the purpose of processing the background investigations.
9. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of the fingerprinting.

10. The department may use the background information findings to determine approval of Medicaid services provider application or termination of enrollment as a Medicaid services provider. An individual denied or terminated as a Medicaid service provider as a result of the background investigation may not be qualified to enroll as a provider, have five percent or greater ownership or control interest in a Medicaid services provider, or submit claims for reimbursement through the department's Medicaid management information system.

SECTION 3. EFFECTIVE DATE. This Act becomes effective July 1, 2017.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 29, 2017

Filed March 30, 2017

CHAPTER 347

SENATE BILL NO. 2060

(Senators Poolman, Casper, Unruh)
(Representatives Streyle, Porter, Pyle)

AN ACT to amend and reenact subsection 2 of section 50-11.1-07.8 and subsection 2 of section 50-25.1-11 of the North Dakota Century Code, relating to parental notification of early childhood services investigations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 50-11.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:

2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
 - a. Shall notify the parent of any child receiving early childhood services when that program's license, self-declaration, or registration document is suspended.
 - b. ~~May~~**Shall** notify the parent of any child receiving early childhood services when an owner, operator, holder of a self-declaration, in-home provider, adult staff member, or adult household member of the program providing care of the child is under investigation under subsection 1.
 - c. ~~May~~**Shall** notify the parent of any child receiving early childhood services that a staff member or household member is under investigation under subsection 1 if the staff member or household member is a minor.

SECTION 2. AMENDMENT. Subsection 2 of section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~The department shall notify the~~ parent or legally appointed guardian of a child receiving early childhood services under chapter 50-11.1 ~~may receive~~**of** the name of the subject; ~~and provide~~ a summary of the facts; and the results of an assessment conducted under this chapter if the report made under this chapter involves the owner, operator, staff member, or household member of the early childhood program, the holder of a self-declaration or a household member of the holder of a self-declaration, or the in-home provider or a household member of the in-home provider, who is providing care to the child. ~~The department shall make a good faith effort to provide written notice of the results of an assessment conducted under this chapter to parents or legally appointed guardians identified in this subsection.~~

Approved March 30, 2017

Filed March 30, 2017

CHAPTER 348

SENATE BILL NO. 2090

(Senator Bekkedahl)
(Representatives Damschen, Hogan)

AN ACT create and enact a new subsection to section 50-11.1-06.2 of the North Dakota Century Code, relating to criminal history record checks; to amend and reenact section 50-06-01.9, subsection 25 of section 50-11.1-02, sections 50-11.1-03, 50-11.1-04, and 50-11.1-06, subsection 1 of section 50-11.1-06.2, subsection 1 of section 50-11.1-07.2, and sections 50-11.1-12, 50-11.1-16, and 50-11.1-17 of the North Dakota Century Code, relating to early childhood services criminal record checks, licensing, definitions, registration, applications, and fees; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁵ **SECTION 1. AMENDMENT.** Section 50-06-01.9 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.9. Criminal history record checks.

The department may require criminal history record checks as the department determines appropriate for:

1. Employees of the department upon hiring;
2. Providers licensed by the department under chapter 50-12, as well as for any employees of those providers; and
3. Applicants Providers holding, applicants for, and emergency designees and staff members of providers holding and applicants for early childhood services licensure, nonlicensed holders of a self-declaration, and/or in-home providers provider registration under chapter 50-11.1. The department also may require criminal history record checks for new staff household members of those applicants, providers of an applicant, and a provider if the provider is providing a residence out of which early childhood services within the provider's home are provided.

SECTION 2. AMENDMENT. Subsection 25 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

25. "Staff member" means ~~operator, caregiver, provider, or any other individual, whether paid or volunteer, who provides care, supervision, or guidance to children in an individual:~~
 - a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration and includes food preparation, transportation, and maintenance personnel; or

¹⁶⁵ Section 50-06-01.9 was also amended by section 1 of Senate Bill No. 2117, chapter 346.

- b. Whose activities involve the care, supervision, or guidance of children for or unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

SECTION 3. AMENDMENT. Section 50-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-03. Operation of early childhood services program - License required - Fees.

1. A license for family child care is required if early childhood services are provided for four or more children ages twenty-four months and under, or six or seven children through age eleven at any one time which includes no more than three children under twenty-four months of age.
2. A license for group child care is required if early childhood services are provided for at least eight and no more than thirty children at any one time.
3. A license for a child care center is required if early childhood services are provided for more than thirty children at any one time.
4. ~~A~~Except as provided under subsection 5, a person, ~~partnership, firm, corporation, limited liability company, association, or nongovernmental organization~~ may not establish or operate a family child care, group child care, preschool, school-age child care, or child care center unless licensed to do so by the department.
5. A governmental organization may not establish or operate a family child care, group child care, preschool, school-age child care, or child care center without first receiving public approval by certifying, to the department or the department's authorized agent, that it has complied with all rules applicable to family child care, group child care, preschool, or school-age child care, or to child care centers.
6. A license is not required for onsite child care services that are located in the actual building in which the child's parent is employed, not to exceed ten children per location.
7. An applicant for a license shall submit the following nonrefundable fees with the application:
 - a. The operator of a family child care applying for a license shall pay an annual license fee of twenty dollars or if the license is issued for a two-year period, a fee of thirty-five dollars.
 - b. The operator of a group child care applying for a license shall pay an annual license fee of twenty-five dollars or if the license is issued for a two-year period, a fee of forty-five dollars.
 - c. The operator of a preschool applying for a license shall pay an annual license fee of thirty dollars or if the license is issued for a two-year period, a fee of fifty-five dollars.

- d. The operator of a child care center applying for a license shall pay an annual license fee of forty dollars or if the license is issued for a two-year period, a fee of seventy-five dollars.
- e. The operator of a multiple licensed program applying for a license shall pay an annual license fee of fifty dollars or if the license is issued for a two-year period, a fee of ninety-five dollars.
8. An applicant for a license who currently holds a license or self-declaration shall submit the nonrefundable fees set forth in subsection 7 with the application at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before the expiration date of the applicant's current license or self-declaration, the applicant shall submit with the application two times the nonrefundable fees set forth in subsection 7.
9. In addition to any criminal sanctions or other civil penalties ~~which that~~ may be imposed pursuant to law, the operator of an early childhood program who, after being given written notice by the department or the department's authorized agent, continues to provide early childhood services without a license as required by this section is subject to a civil penalty of fifty dollars per day for each day of operation without the required license. The civil penalty may be imposed by the courts or by the department through an administrative hearing pursuant to chapter 28-32.
- ~~9-10.~~ All fees collected under ~~subsection 6~~subsections 7 and 8 must be paid to the department or the department's authorized agent and must be used to defray the cost, to the department or the department's authorized agent, of investigating, inspecting, and evaluating the applications or to provide training to providers of early childhood services.

SECTION 4. AMENDMENT. Section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-04. Application for license - Prerequisites for issuance - License granted - Term.

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing that:

- a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and ~~must~~ beare maintained according to rules adopted by the department;
 - b. Staff members are qualified to fulfill the duties required of them according to the provisions of this chapter and standards prescribed for their qualifications by the rules of the department;
 - c. The application ~~does~~ and supporting documents do not include any fraudulent or untrue representations;
 - d. The owner ~~or~~ operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months ~~prior to~~ before the date of the current application;
 - e. The owner ~~or~~ operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial ~~cannot~~ may not have occurred within the five years immediately preceding the application date;
 - f. The program has paid its license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
 - g. The family child care owner or operator ~~has~~ and staff members have received training and isare currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and isare currently certified in first aid by a program approved by the department; and
 - h. The group child care, preschool, school-age child care, or child care center ~~maintains~~, at all times during which early childhood services are provided, ~~at least one person who has~~ staff members have received training and isare currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and ~~at least one person who is~~ currently certified in first aid by a program approved by the department.
2. The license issued to the owner or operator of an early childhood ~~services~~ program may not be effective for longer than two years.
 3. The department may consider the applicant's ~~prior~~ past licensing, self-declaration, and registration history in determining whether to issue a license.
 4. The department may issue a provisional or restricted license in accordance with the rules of the department.

5. The department shall notify the owner or operator that the owner or operator is required to post a notice of late application at the early childhood program premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of the early childhood program's license.

SECTION 5. AMENDMENT. Section 50-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-06. In-home provider - Registration voluntary - Prerequisites for approval - Issuance of registration document - Term.

An in-home provider may apply for a registration document from the department. The department or the department's authorized agent shall determine whether the applicant meets the standards and shall issue or deny a registration document based upon that determination. A registration document for an in-home provider may not be effective for longer than one year. The application ~~does and supporting documents~~ may not include any fraudulent or untrue representations. The department may consider the early childhood services history of the applicant in determining issuance of a registration document. The department may investigate an applicant according to rules adopted by the department to determine whether the applicant has a criminal record or has been the subject of a finding of services required for child abuse and neglect. The department may issue a provisional in-home provider registration document in accordance with the rules of the department.

¹⁶⁶ **SECTION 6. AMENDMENT.** Subsection 1 of section 50-11.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon a determination by the department ~~that a criminal history record check is appropriate, at the following individuals are to obtain two sets of the individual's fingerprints from a law enforcement agency or other local agency authorized to take fingerprints:~~
 - a. ~~A provider holding or an applicant for early childhood services licensure, self-declaration, or in-home provider, as well as new staff members of early childhood services programs and new household registration;~~
 - b. Emergency designees and staff members of providers holding and applicants for early childhood services licensure, self-declaration, or in-home provider registration; and
 - c. Household members of a residence out of which early childhood services are provided, shall obtain two sets of the individual's fingerprints from a law enforcement agency or other local agency authorized to take fingerprints.

¹⁶⁷ **SECTION 7.** A new subsection to section 50-11.1-06.2 of the North Dakota Century Code is created and enacted as follows:

A criminal history record check conducted under this section and subsection 3 of section 50-06-01.9 is valid for five years, after which the department shall

¹⁶⁶ Section 50-11.1-06.2 was also amended by section 7 of Senate Bill No. 2090, chapter 348.

¹⁶⁷ Section 50-11.1-06.2 was also amended by section 6 of Senate Bill No. 2090, chapter 348.

require another criminal history record check.

SECTION 8. AMENDMENT. Subsection 1 of section 50-11.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Whenever~~ If the department or the department's authorized agent finds, upon inspection, that the program, self-declaration, or premises is not in compliance with this chapter; or the rules adopted under this chapter, the department or the department's authorized agent shall issue a correction order to the program or self-declaration, provided the department does not revoke the license or self-declaration as a result of the noncompliance. The correction order must cite the specific statute or rule violated, state the factual basis of the violation, state the suggested method of correction, and specify the time allowed for correction. The correction order must also specify the amount of any fiscal sanction to be assessed if the program or self-declaration fails to comply with the correction order in a timely fashion. This section does not apply to an applicant's failure to comply with subsection 8 of section 50-11.1-03 or subdivision c of subsection 1 of section 50-11.1-16.

SECTION 9. AMENDMENT. Section 50-11.1-12 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-12. Violation of chapter or rules - Injunction.

The department ~~or the department's authorized agent~~ may seek injunctive action against an individual who provides early childhood services for which licensure is required, an early childhood program, ~~or~~ holder of a self-declaration, or in-home ~~registration document~~ provider in the district court through proceedings instituted by the attorney general on behalf of the department ~~or by a state's attorney on behalf of the authorized agent~~, if:

1. There is a violation of this chapter or a rule adopted under this chapter; or
2. An early childhood program ~~or~~, holder of a self-declaration, or in-home ~~registration document~~ provider, after notice and opportunity for hearing on the notice of noncompliance, ~~or~~ on the resumption of the fiscal sanction, or after administrative hearing confirming and upholding the fiscal sanction does not pay a properly assessed fiscal sanction in accordance with section 50-11.1-07.6.

SECTION 10. AMENDMENT. Section 50-11.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-16. Self-declaration - Approved application required - Fees.

1. a. An application for self-declaration is voluntary. ~~An~~ if an individual may apply applies for self-declaration from the department. ~~The, the~~ department or the department's authorized agent shall determine whether the standards for self-declaration have been met and shall approve or deny a self-declaration based upon that determination.
- b. An applicant for self-declaration shall pay a nonrefundable fee of fifteen dollars at the time the application is filed.
- c. An applicant for self-declaration, who currently holds a license or self-declaration, shall submit the nonrefundable fees with the application at

least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before expiration of the applicant's current license or self-declaration, the applicant shall submit with the application two times the regular nonrefundable fees.

2. All fees collected under this section must be paid to the department or the department's authorized agent and must be used to defray the cost of investigating, inspecting, and evaluating applications for self-declarations or to provide training to providers of early childhood services.

SECTION 11. AMENDMENT. Section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval - Term.

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department or the department's authorized agent shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department or the department's authorized agent shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Except as otherwise provided, the department shall approve a self-declaration within thirty days of receipt of a completed application and all supporting documents by the department and upon the applicant's declaration that:
 - a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and ~~shall be~~ maintained according to the standards prescribed by the rules of the department;
 - b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in its rules;
 - c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;
 - d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial ~~cannot~~may not have occurred within five years of the application date;
 - e. The applicant has paid the required application fees;
 - f. The applicant has paid any penalties and sanctions assessed against the program required by sections 50-11.1-03 and 50-11.1-07.4;
 - g. The applicant is currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;

CHAPTER 349

SENATE BILL NO. 2342

(Senator Grabinger)
(Representative Satrom)

AN ACT to provide for the creation of a task force on the prevention of sexual abuse of children; and to provide a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TASK FORCE ON PREVENTION OF SEXUAL ABUSE OF CHILDREN - REPORT TO LEGISLATIVE MANAGEMENT AND GOVERNOR.

1. During the 2017-18 interim, a task force on the prevention of sexual abuse of children shall gather information concerning child sexual abuse throughout the state and develop recommendations to reduce child sexual abuse.
2. The task force consists of the following members:
 - a. One member of the senate appointed by the majority leader of the senate, one member of the house of representatives appointed by the majority leader of the house of representatives, and one member of the minority party appointed by the minority leaders of the senate and the house of representatives;
 - b. The executive director of the department of human services, or the executive director's designee;
 - c. A representative of a children's advocacy center or similar organization that assists in the investigation, prosecution, and treatment of child sexual and physical abuse cases, appointed by the executive director of the department of human services;
 - d. A representative of an organization involved in the prevention of child abuse, appointed by the executive director of the department of human services;
 - e. The superintendent of public instruction, or the superintendent's designee;
 - f. A representative of law enforcement, appointed by the attorney general; and
 - g. The executive director of the Indian affairs commission, or the executive director's designee.
3. The executive director of the department of human services, or the executive director's designee, shall convene the task force. The task force shall elect a presiding officer by a majority vote of the membership of the task force. The task force shall meet at the call of the presiding officer.
4. The task force shall:

- a. Gather information concerning child sexual abuse throughout the state;
 - b. Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;
 - c. Create goals for state policy that would prevent child sexual abuse; and
 - d. Submit a final report with its recommendations to the governor and the legislative management.
5. The recommendations of the task force may include proposals for specific statutory changes and methods to foster cooperation among state agencies and between the state and local governments in adopting and implementing a policy addressing sexual abuse of children which may include age-appropriate curriculum for students in prekindergarten through grade twelve; training for school personnel on child sexual abuse; educational information to parents or guardians provided in school handbooks regarding the warning signs of a child being abused, along with any needed assistance, referral, or resource information; available counseling and resources for students affected by sexual abuse; and emotional and educational support for a child of abuse to continue to be successful in school.

Approved April 7, 2017

Filed April 7, 2017

CHAPTER 350

SENATE BILL NO. 2038

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to the establishment of a task force on children's behavioral health; to amend and reenact section 15.1-07-34, subsection 1 of section 25-03.1-11, and section 25-03.1-26 of the North Dakota Century Code, relating to emergency hold limitations for mental health examinations; to provide for a report to the governor and the legislative management; and to repeal sections 15.1-19-19 and 15.1-19-24 of the North Dakota Century Code, relating to professional development training regarding the prevention of bullying and youth suicide.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-07-34 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-34. Provision of youth ~~mental~~behavioral health training to teachers, administrators, and ancillary staff.

1. ~~Once every~~Every two years, each school district shall provide a minimum of eight hours of ~~training~~professional development on youth ~~mental~~behavioral health to elementary, middle, and high school teachers, and administrators. Each school district shall encourage ancillary and support staff to participate in the ~~training~~professional development. ~~Based on the annual needs assessment of the school district, these hours must be designated from the following categories:~~

- a. Trauma;
- b. Social and emotional learning, including resiliency;
- c. Suicide prevention;
- d. Bullying;

~~The training must include:~~

- a-e. Understanding of the prevalence and impact of youth ~~mental~~behavioral health ~~disorders~~wellness on family structure, education, juvenile services, law enforcement, and health care and treatment providers;
- b-f. Knowledge of ~~mental~~behavioral health symptoms, ~~social stigmas, and risks,~~ and protective factors; and
- e-g. Awareness of referral sources and ~~evidence-based~~ strategies for appropriate interventions; ~~or~~

h. Other evidence-based strategies to reduce risk factors for students.

2. Each school district shall report the ~~outcome of the training~~professional development hours to the department of public instruction.
3. The superintendent of public instruction shall collaborate with regional education associations to disseminate information, training materials, and notice of training opportunities to school districts and nonpublic schools.

¹⁶⁸ **SECTION 2. AMENDMENT.** Subsection 1 of section 25-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within ~~twenty-four hours, exclusive of holidays, of custody~~the time limitations set forth in section 25-03.1-26. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court. The report must contain:
 - a. Evaluations of the respondent's physical condition and mental status.
 - b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
 - c. If the report concludes that the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
 - d. The signature of the examiner who prepared the report.

SECTION 3. AMENDMENT. Section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, either within twenty-four hours, exclusive of holidays, after admission or within seventy-two hours after admission, exclusive of holidays, if the individual is admitted with a serious physical condition or illness that requires prompt treatment, shall either release;
 - a. Release the individual if the superintendent or director finds that the subject does not meet the emergency commitment standards; or file

¹⁶⁸ Section 25-03.1-11 was also amended by section 23 of Senate Bill No. 2042, chapter 97.

- b. File a petition if one has not been filed with the court of the individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be a person who is mentally ill or a person who is both mentally ill and chemically dependent, or a treatment hearing, if the respondent is alleged to be a person who is chemically dependent, to be held no later than four days, exclusive of weekends and holidays, after detention unless the person has been released as a person not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

SECTION 4. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Task force on children's behavioral health - Membership - Duties - Reports to governor and legislative management.

1. The task force on children's behavioral health is created for the purpose of assessing and guiding efforts within the children's behavioral health system to ensure a full continuum of care is available in the state.
2. The task force consists of the following members:
 - a. The superintendent of public instruction, or the superintendent's designee;
 - b. The executive director of the department of human services, or the executive director's designee;
 - c. The state health officer, or the state health officer's designee;
 - d. The director of the department of corrections and rehabilitation, or the director's designee;
 - e. The executive director of the Indian affairs commission, or the executive director's designee; and
 - f. The director of the committee on protection and advocacy, or the director's designee.
3. The executive director of the department of human services, or the executive director's designee, shall serve as the chairman of the task force. The task force shall meet at least quarterly. Additional meetings may be held at the discretion of the chairman.
4. The task force may request appropriate staff services from the department of human services.
5. The task force shall:

- a. Assess and guide efforts within the children's behavioral health system to ensure a full behavioral health continuum of care is available in the state;
- b. Make recommendations to ensure the children's behavioral health services are seamless, effective, and not duplicative;
- c. Identify recommendations and strategies to address gaps or needs in the children's behavioral health system;
- d. Engage stakeholders from across the continuum to assess and develop strategies to address gaps or needs in areas including:
 - (1) Education;
 - (2) Juvenile justice;
 - (3) Child welfare;
 - (4) Community; and
 - (5) Health; and
- e. Provide a report to the governor and the legislative management every six months regarding the status of the task force's efforts.

SECTION 5. REPORT TO GOVERNOR AND LEGISLATIVE MANAGEMENT.

Before July 1, 2018, the task force on children's behavioral health shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative management.

SECTION 6. REPEAL. Sections 15.1-19-19 and 15.1-19-24 of the North Dakota Century Code are repealed.

Approved April 7, 2017

Filed April 7, 2017

CHAPTER 351

SENATE BILL NO. 2115

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 1 of section 50-06-32 of the North Dakota Century Code, relating to the members of the autism spectrum disorder task force.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-06-32 of the North Dakota Century Code is amended and reenacted as follows:

1. The autism spectrum disorder task force consists of:
 - a. (1) The state health officer, or the officer's designee;
 - (2) The director of the department of human services, or the director's designee;
 - (3) ~~The director of special education~~superintendent of public instruction, or the ~~director's~~superintendent's designee; and
 - (4) The executive director of the protection and advocacy project, or the director's designee; and
- b. The following members appointed by the governor:
 - (1) A pediatrician with expertise in the area of autism spectrum disorder;
 - (2) A psychologist with expertise in the area of autism spectrum disorder;
 - (3) A college of education faculty member with expertise in the area of autism spectrum disorder;
 - (4) A behavioral specialist;
 - (5) A licensed teacher with expertise in the area of autism spectrum disorder;
 - ~~(5)~~(6) An occupational therapist;
 - ~~(6)~~(7) A representative of a health insurance company doing business in this state;
 - ~~(7)~~(8) A representative of a licensed residential care facility ~~for~~that provides care and services to individuals with autism spectrum disorder;
 - ~~(8)~~(9) A representative who is an enrolled member of a federally recognized Indian tribe;

~~(10)~~ An adult self advocate with autism spectrum disorder;

~~(11)~~ A parent of a child with autism spectrum disorder;

~~(9)~~~~(12)~~ A family member of an adult with autism spectrum disorder; and

~~(10)~~~~(13)~~ A member of the legislative assembly.

Approved March 29, 2017

Filed March 30, 2017

CHAPTER 352

SENATE BILL NO. 2118

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-06-21 and 50-06-22 and subsection 4 of section 53-12.1-09 of the North Dakota Century Code, relating to gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-21 of the North Dakota Century Code is amended and reenacted as follows:

50-06-21. ~~Compulsive gambling~~ Gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.

The department of human services shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for ~~compulsive gamblers~~ individuals with a gambling disorder. An individual who provides treatment services must be a ~~mental health professional as defined in section 25-03.1-02 and meet the minimum standards for certification as a gambling counselor as established by rule by that mental health professional's licensing board~~ licensed professional operating within the individual's scope of practice. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department of human services may establish a sliding payment scale for services under the program. The department of human services may establish a centrally located repository of educational materials on identifying and treating ~~compulsive gambling disorders~~. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's ~~compulsive gambling disorder~~ services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering ~~compulsive gambling disorder~~ education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of human services. The term "~~compulsive gambler~~" means an individual who is ~~chronically and progressively preoccupied with gambling and the urge to gamble and with~~ "gambling disorder" means a chronic, progressive disease that is characterized by a preoccupation with gambling, loss of control over gambling behaviors, and oftentimes disregard for the negative consequences as a result of gambling. Gambling disorder includes gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

SECTION 2. AMENDMENT. Section 50-06-22 of the North Dakota Century Code is amended and reenacted as follows:

50-06-22. ~~Compulsive gambling~~ Gambling disorder prevention and treatment fund - Continuing appropriation.

Funds deposited in the ~~compulsive gambling~~ disorder prevention and treatment fund under section 53-12.1-09 are appropriated to the department on a continuing basis for the purpose of providing the services under section 50-06-21.

SECTION 3. AMENDMENT. Subsection 4 of section 53-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

4. Transfer of net proceeds:
 - a. Eighty thousand dollars must be transferred to the state treasurer each quarter for deposit in the ~~compulsive gambling~~ disorder prevention and treatment fund;
 - b. An amount for the lottery's share of a game's prize reserve pool must be transferred to the multistate lottery association;
 - c. Starting July 1, 2007, one hundred five thousand six hundred twenty-five dollars must be transferred to the state treasurer each quarter for deposit in the attorney general multijurisdictional drug task force grant fund; and
 - d. The balance of the net proceeds, less holdback of any reserve funds the director may need for continuing operations, must be transferred to the state treasurer on at least an annual basis for deposit in the state general fund.

Approved March 9, 2017

Filed March 9, 2017

CHAPTER 353

SENATE BILL NO. 2039

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact section 50-06-06.14 of the North Dakota Century Code, relating to the placement of children in the least restrictive environment; to amend and reenact 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 50-06-06.5, and subsection 1 of section 50-06-20 of the North Dakota Century Code, relating to the structure and duties of the department of human services with respect to behavioral health; to repeal chapter 25-10 and sections 25-02-02, 50-06-01.2, and 50-06-23 of the North Dakota Century Code, relating to mental health services, the additional location for a hospital for the mentally ill, and the assumption of duties by the department of human services; to provide for transition; to provide a statement of legislative intent; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

50-06-01. Definition.

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

1. "Behavioral health" means the planning and implementation of preventive, consultative, diagnostic, treatment, crisis intervention, and rehabilitative services for individuals with mental, emotional, or substance use disorders, and psychiatric conditions.
2. "Behavioral health provider" means any licensed or accredited behavioral health provider in this state.
3. "Department" means the department of human services.
4. "Human services" means services provided to an individual or an individual's family in need of services to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

¹⁶⁹ **SECTION 2. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

¹⁶⁹ Section 50-06-01.4 was also amended by section 3 of House Bill No. 1117, chapter 332, and section 2 of House Bill No. 1136, chapter 331.

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.

b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.

c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult family care homes, committee on aging, and the fund matching program for city or county tax levies for senior citizen activities and services.

~~d. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.~~

~~e. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public. Administration of behavioral health programs, including:~~

~~(1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and~~

~~(2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.~~

~~f.e.~~ Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance

program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.

g-f. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening, diagnosis and treatment, utilization control, and claims processing.

2. The executive director shall consult with and maintain a close working relationship with the state department of health; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

¹⁷⁰ **SECTION 3. AMENDMENT.** Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

¹⁷¹ **SECTION 4. AMENDMENT.** Section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, food and nutrition, and housing service. Regional human service centers shall function as regional administrative units~~

¹⁷⁰ Section 50-06-05.2 was also amended by section 4 of House Bill No. 1136, chapter 331.

¹⁷¹ Section 50-06-05.3 was also amended by section 5 of House Bill No. 1136, chapter 331.

~~established, within the multicounty areas designated by the governor's executive order 1978-12 dated October 5, 1978, to provide for the planning and delivery of human services:~~

2. Regional human service centers shall provide human services to all eligible individuals and families to help ~~them~~individuals and families achieve or maintain social, emotional, and economic self-sufficiency; ~~prevent, by providing human services to:~~
 - a. Prevent, reduce, or eliminate dependency; ~~prevent~~
 - b. Prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; aid
 - c. Aid in the preservation, rehabilitation, and reuniting of families; ~~prevent~~
 - d. Prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; ~~secure~~
 - e. Secure referral or admission for institutional care; ~~provide~~
 - f. Provide outpatient diagnostic and treatment services; ~~provide~~
 - g. Provide information concerning guardianship to people interested in becoming or who are guardians; and ~~provide~~
 - h. Provide rehabilitation and crisis services for patients with mental or emotional, or substance use disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in an inpatient facility.
2. Regional human service centers shall deliver services in the manner prescribed by the department.
3. ~~The director shall appoint a human service advisory group for each human service center consisting of up to thirteen members~~Each human service center must have a human services advisory group consisting of the county social service directors of the region served, the public health directors of the region served, two current county commissioners appointed by the executive director of the department, and five additional members appointed by the executive director of the department. Each advisory group member must be a resident of the region the member is appointed to serve. ~~The director shall appoint two current county commissioners and one current county social service board member to serve as members of a human service advisory group. The director may appoint an additional current commissioner to serve in lieu of the current county social service board member. The term~~term of office ~~must be for each appointed member is~~ two years and arranged so that the term of ~~one-half~~three of the appointed members expires at the end of the first year and the term of the remaining four appointed members expires at the end of the second year, ~~except for those first members appointed, three members shall serve a one-year term and four members shall serve a two-year term.~~ The director shall select the appointed members of each human service advisory group on the basis of population of the counties in the region served by the human service center. Each county in the region must be

represented by at least one member on the human service advisory group. To the extent possible, appointed membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and ~~alcoholism and drug abuses~~ substance use disorders. The executive director of the department shall appoint a chairman for each advisory group from the membership of the advisory group. The executive director of the department shall fill a vacancy occurring within an advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate appointed members of a human service advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

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

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

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

1. Provide information to the department relative to needs assessment and the planning and development of health and social resources for the effective and efficient delivery of high-quality human services fully accessible to all citizens.
2. Review services and programs provided by the regional human service centers and make periodic recommendations ~~the advisory group may have~~ for improvement in services, programs, or facilities.
3. Promote cooperation and working agreements with public agencies, including public health and corrections and private human service agencies.
4. Promote local and regional financing from public and private sources.

¹⁷² **SECTION 6. AMENDMENT.** Section 50-06-06.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

¹⁷² Section 50-06-06.2 was also amended by section 7 of House Bill No. 1043, chapter 57.

Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished eligible individuals by county social service boards and regional human service centers.

¹⁷³ **SECTION 7. AMENDMENT.** Section 50-06-06.5 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The department of human services shall develop a plan for an integrated, multidisciplinary continuum of services for ~~chronically mentally ill individuals with serious and persistent mental illness~~. The continuum may consist of an array of services provided by private mental health professionals, private agencies, county social service agencies, human service centers, community-based residential care and treatment facilities, and private and public inpatient psychiatric hospitals. ~~To the extent feasible~~When appropriate, access to the continuum must be through human service centers. Within the limits of legislative appropriations, the plan for a continuum may include:
 1. a. Programs, and appropriate related facilities, to provide socialization skills.
 2. b. Programs, and appropriate related facilities, to provide basic living skills.
 3. c. ~~Appropriate residential facilities and other housing options.~~
 4. d. Appropriate training, placement, and support to enhance potential for employment.
 5. e. Appropriate delivery and control of necessary medication.
 6. f. Appropriate economic assistance.
 7. g. An inpatient facility with appropriate programs to respond to persons who require hospitalization.
 - h. Peer and recovery support.
 - i. Crisis service that is available twenty-four hours a day seven days a week.
2. The continuum of care must provide that a person requiring treatment be submitted to the least restrictive available conditions necessary to achieve the purposes of treatment. The department shall ensure appropriate cooperation with county social service agencies and private providers in achieving the continuum of care.

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

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

The department and county social service boards shall explore the option of kinship care when a child is unable to return home due to safety concerns. Absent

¹⁷³ Section 50-06-06.5 was also amended by section 5 of House Bill No. 1117, chapter 332.

kinship options, the department and county social service boards shall provide permanency options that are in the least restrictive care and near the family's home as required by the federal Adoption and Safe Family Act of 1997 [Pub. L. 105-89; 111 Stat. 2115; 42 U.S.C. 671].

¹⁷⁴ **SECTION 9. AMENDMENT.** Subsection 1 of section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. As provided in section 50-24.1-14, medical assistance services provided under chapter 50-24.1;
 - b. Energy assistance program benefits provided under subsection 49~~18~~ of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. Services, programs, and costs listed in section 50-09-27;
 - e. Welfare fraud detection programs; and
 - f. Special projects approved by the department and agreed to by any affected county social service board.

¹⁷⁵ **SECTION 10. REPEAL.** Chapter 25-10 and sections 25-02-02, 50-06-01.2, and 50-06-23 of the North Dakota Century Code are repealed.

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

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

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

Approved April 18, 2017

Filed April 18, 2017

¹⁷⁴ Section 50-06-20 was also amended by section 8 of House Bill No. 1136, chapter 331.

¹⁷⁵ Section 50-06-23 was amended by section 9 of House Bill No. 1136, chapter 331.