

HOUSE BILL NO. 1189

Introduced by

Representative Brandenburg

1 A BILL for an Act to amend and reenact subsection 3 of section 43-41-12 and sections
2 50-25.1-05.1, 50-25.1-05.2, 50-25.1-05.4, 50-25.1-13, and 50-25.1-19 of the North Dakota
3 Century Code, relating to child abuse and neglect; and to provide for a penalty.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 43-41-12 of the North Dakota Century
6 Code is amended and reenacted as follows:

7 3. A license may be renewed by payment of the renewal fee and completion of the
8 continuing education requirements set by the board, provided the applicant's license is
9 not currently revoked or grounds for denial under section 43-41-10 do not exist. The
10 continuing education requirements must include education focused on custody issues
11 if the licensee conducts abuse and neglect assessments under chapter 50-25.1.

12 **SECTION 2. AMENDMENT.** Section 50-25.1-05.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **50-25.1-05.1. Services required - How determined.**

15 Upon completion of the assessment of the initial report of child abuse or neglect, a decision
16 must be made whether services are required to provide for the protection and treatment of an
17 abused or neglected child.

18 1. This~~Regardless of whether the department uses an authorized agent, the~~
19 determination is the responsibility of the department and the department is responsible
20 for ensuring the law and department policy is followed in making the determination.

21 2. A decision that services are required may not be made ~~when~~if the suspected child
22 abuse or neglect arises solely out of conduct involving the legitimate practice of
23 religious beliefs by a parent or guardian. This exception does not preclude a court

1 from ordering that medical services be provided to the child ~~when~~if the child's life or
2 safety requires it or the child is subject to harm or threatened harm.

3 **SECTION 3. AMENDMENT.** Section 50-25.1-05.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **50-25.1-05.2. Report to the court - Entry of report in the child abuse information**
6 **index.**

7 1. Upon a decision that services are required, the department promptly shall make a
8 written report of the decision to the juvenile court having jurisdiction in the matter.

9 2. The department promptly shall file a report of a decision that services are required
10 under this section in the child abuse information index.

11 3. If a decision that services are required is withdrawn or overruled, the department
12 promptly shall:

13 a. Notify the juvenile court having jurisdiction in the matter;

14 b. Remove the report from the child abuse information index;

15 c. If a mandated reporter was involved in initiation of the assessment, notify that
16 individual of the change in the decision that services are required; and

17 d. Notify the subject of the initial decision whether the change in the decision that
18 services are required resulted in remedial training under section 50-25.1-19.

19 **SECTION 4. AMENDMENT.** Section 50-25.1-05.4 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **50-25.1-05.4. Department to adopt rules for filing of grievances and review of**
22 **assessment findings.**

23 1. The department shall adopt rules to resolve ~~complaints~~grievances and conduct appeal
24 hearings requested by the subject of a report of suspected child abuse, neglect, or
25 death resulting from abuse or neglect who is aggrieved by the conduct or result of an
26 assessment.

27 a. The grievance procedure must include a clear reporting protocol to report up the
28 chain of command to the state level.

29 b. If a grievance establishes the department did not conform substantially with
30 department policy or establishes the department acted in reckless disregard in
31 determining whether a false report was made or false information was provided.

1 the department shall take all actions necessary to make whole the subject of the
2 report, including the reimbursement of expenses incurred, the provision of
3 services to address the grievance, and the payment of the cost of services to
4 address the grievance.

5 2. Notwithstanding chapter 28-32, the appeal process must provide an opportunity for an
6 expedited appeal.

7 a. During an appeal in a nonemergency situation, the department may suspend all
8 or some of the services required.

9 b. If the outcome of an appeal is that the services were not required, the department
10 shall reimburse the subject of the report for any expenses incurred, including loss
11 of earnings.

12 **SECTION 5. AMENDMENT.** Section 50-25.1-13 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **50-25.1-13. Penalty for failure to report - Penalty and civil liability for false reports.**

15 Any~~A~~ person required by this chapter to report or to supply information concerning a case of
16 known or suspected child abuse, neglect, or death resulting from abuse or neglect ~~whethat~~
17 willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor. Any~~A~~
18 person ~~whethat~~ willfully, as defined in section 12.1-02-02, makes a false report, or provides
19 false information ~~whethat~~ causes a report to be made, under this chapter is guilty of a class B
20 misdemeanor unless the false report is made to a law enforcement official, in which case the
21 person ~~whethat~~ causes the false report to be made is guilty of a class A misdemeanor. A person
22 ~~whethat~~ willfully makes a false report, or willfully provides false information that causes a report
23 to be made, under this chapter is also liable in a civil action for all damages suffered by the
24 person reported, including compensatory and exemplary damages.

25 **SECTION 6. AMENDMENT.** Section 50-25.1-19 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **50-25.1-19. Child protective services duties - Training requirements.**

28 1. The department, at the initial time of contact with an individual subject to a child abuse
29 or neglect assessment, shall advise the individual of the specific complaints or
30 allegations made against the individual. Upon the issuance of a decision of whether

- 1 services are required, the department shall advise the subject of the report of the right
2 to file a grievance under section 50-25.1-05.4.
- 3 2. The department shall provide training to all representatives of the child protective
4 services system regarding the legal duties of the representatives. The training may
5 consist of various methods of informing the representatives of these duties; to protect
6 the legal rights and safety of children and families from the initial time of contact during
7 assessment through treatment. The training must include remedial training for
8 representatives who fail to conform substantially with department policy and
9 participation in remedial training must be made a part of the representatives'
10 personnel files.
- 11 3. The department shall adopt rules to implement the requirements of this section.