

HOUSE BILL NO. 1114

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact subsection 5 of section 50-06-01.9, section 50-11.1-02,
2 subsection 26 of section 50-11.1-02, section 50-11.1-02.2, subsection 8 of section 50-11.1-03,
3 sections 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2,
4 50-11.1-07.3, 50-11.1-07.4, 50-11.1-07.5, 50-11.1-07.6, subsection 1 of section 50-11.1-07.8,
5 and sections 50-11.1-08, 50-11.1-09, 50-11.1-10, 50-11.1-12, and 50-11.1-17 of the North
6 Dakota Century Code, relating to early childhood services; to repeal sections 50-11.1-16 and
7 50-11.1-17 of the North Dakota Century Code, relating to self-declaration application; and to
8 provide an effective date.

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

10 **SECTION 1. AMENDMENT.** Subsection 5 of section 50-06-01.9 of the North Dakota
11 Century Code is amended and reenacted as follows:

12 5. Providers holding, applicants for, and emergency designees and staff members of
13 providers holding and applicants for early childhood services licensure,
14 self-declaration, or in-home provider registration under chapter 50-11.1. The
15 department also may require criminal history record checks for household members of
16 a residence out of which early childhood services within the provider's home are
17 provided; and

18 **SECTION 2. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-11.1-02. Definitions.**

21 As used in this chapter, unless the context or subject matter otherwise requires:

22 1. "Authorized agent" means the county social service board, unless another entity is
23 designated by the department.

- 1 2. "Child care center" means an early childhood program licensed to provide early
2 childhood services to nineteen or more children.
- 3 3. "County agency" means the county social service board in each of the counties of the
4 state.
- 5 4. "Department" means the department of human services.
- 6 5. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled
7 basis to meet the short-term needs of families.
- 8 6. "Early childhood program" means any program licensed under this chapter where
9 early childhood services are provided for at least two hours a day for three or more
10 days a week.
- 11 7. "Early childhood services" means the care, supervision, education, or guidance of a
12 child or children, which is provided in exchange for money, goods, or other services.
13 Early childhood services does not include:
 - 14 a. Substitute parental child care provided pursuant to chapter 50-11.
 - 15 b. Child care provided in any educational facility, ~~whether public or private~~, in grade
16 one or above.
 - 17 c. Child care provided in a kindergarten which has been established pursuant to
18 chapter 15.1-22 or a nonpublic elementary school program approved pursuant to
19 ~~subsection 1 of section 15.1-06-06~~ 15.1-06-06.1.
 - 20 d. ~~Child care, preschool, and prekindergarten services~~ Early childhood education
21 program provided to children under six years of age in any educational facility
22 through a program approved by the superintendent of public instruction pursuant
23 to chapter 15.1-37.
 - 24 e. Child care provided in facilities operated in connection with a church, business, or
25 organization where children are cared for during periods of time not exceeding
26 four continuous hours while the child's parent is attending church services or is
27 engaged in other activities, on the premises.
 - 28 f. Schools or classes for religious instruction conducted by religious orders during
29 the summer months for not more than two weeks, Sunday schools, weekly
30 catechism, or other classes for religious instruction.

- 1 g. Summer resident or day camps for children which serve no children under six
2 years of age for more than two weeks.
- 3 h. Sporting events, practices for sporting events, or sporting or physical activities
4 conducted under the supervision of an adult.
- 5 i. Head start and early head start programs that are federally funded and meet
6 federal head start performance standards.
- 7 j. Child care provided in a medical facility by medical personnel to children who are
8 ill.
- 9 8. "Educational facility" means a public or nonpublic school.
- 10 9. "Family child care" means a private residence licensed to provide early childhood
11 services for no more than seven children at any one time, except that the term
12 includes a residence licensed to provide early childhood services to two additional
13 school-age children.
- 14 ~~9-10.~~ "Group child care" means a child care program licensed to provide early childhood
15 services for thirty or fewer children.
- 16 ~~40-11.~~ "Household member" means an adult living in the private residence out of which a
17 program is operated, regardless of whether the adult is living there permanently or
18 temporarily.
- 19 ~~41-12.~~ "In-home provider" means any person who provides early childhood services to
20 children in the children's home.
- 21 ~~42-13.~~ "Licensed" means an early childhood program has the rights, authority, or permission
22 granted by the department to operate and provide early childhood services.
- 23 ~~43-14.~~ "Multiple licensed program" means an early childhood program licensed to provide
24 more than one type of early childhood services.
- 25 ~~44-15.~~ "Owner" or "operator" means the person who has legal responsibility for the early
26 childhood program and premises.
- 27 ~~45-16.~~ "Parent" means an individual with the legal relationship of father or mother to a child or
28 an individual who legally stands in place of a father or mother, including a legal
29 guardian or custodian.
- 30 ~~46-17.~~ "Premises" means the indoor and outdoor areas approved for providing early
31 childhood services.

- 1 ~~17-18.~~ "Preschool" means a program licensed to offer early childhood services, which follows
2 a preschool curriculum and course of study designed primarily to enhance the
3 educational development of the children enrolled ~~and which serves no child for more-~~
4 ~~than three hours per day.~~
- 5 ~~18-19.~~ "Public approval" means a nonlicensed early childhood program operated by a
6 government entity that has self-certified that the program complies with this chapter.
- 7 ~~19-20.~~ "Registrant" means the holder of an in-home provider registration document issued by
8 the department in accordance with this chapter.
- 9 ~~20-21.~~ "Registration" means the process whereby the department maintains a record of all
10 in-home providers who have stated that they have complied or will comply with the
11 prescribed standards and adopted rules.
- 12 ~~21-22.~~ "Registration document" means a written instrument issued by the department to
13 publicly document that the registrant has complied with this chapter and the applicable
14 rules and standards as prescribed by the department.
- 15 ~~22-23.~~ "School-age child care" means a child care program licensed to provide early
16 childhood services on a regular basis for nineteen or more children aged five years
17 through eleven years.
- 18 ~~23-24.~~ "School-age children" means children served under this chapter who are at least five
19 years but less than twelve years of age.
- 20 ~~24-25.~~ "Self-declaration" means voluntary documentation of an individual providing early
21 childhood services in a private residence for up to five children through the age of
22 eleven, of which no more than three may be under the age of twenty-four months.
- 23 ~~25-26.~~ "Staff member" means an individual:
- 24 a. Who is an employee of an early childhood program or of an early childhood
25 services provider under a self-declaration; ~~or~~
- 26 b. Whose activities involve the care, supervision, or guidance of children ~~for~~ an
27 early childhood program; or
- 28 c. Who may have unsupervised access to children under the care, supervision, or
29 guidance of an early childhood program or early childhood services provider
30 under a self-declaration.

1 **SECTION 3. AMENDMENT.** Subsection 26 of section 50-11.1-02 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 26. "Staff member" means an individual:

- 4 a. Who is an employee of an early childhood program ~~or of an early childhood~~
5 ~~services provider under a self-declaration;~~
6 b. Whose activities involve the care, supervision, or guidance of children of an early
7 childhood program; or
8 c. Who may have unsupervised access to children under the care, supervision, or
9 guidance of an early childhood program.

10 **SECTION 4. AMENDMENT.** Section 50-11.1-02.2 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **50-11.1-02.2. Smoking prohibited on premises where early childhood services are**
13 **provided.**

14 As provided by section 23-12-10, smoking is not permitted on the premises where early
15 childhood services are provided. ~~For purposes of sections 23-12-09 and 23-12-10, a person~~
16 ~~providing early childhood services as a registrant or pursuant to a self-declaration is considered~~
17 ~~a child care facility subject to licensure by the department.~~

18 **SECTION 5. AMENDMENT.** Subsection 8 of section 50-11.1-03 of the North Dakota
19 Century Code is amended and reenacted as follows:

- 20 8. An applicant for a license who currently holds a license ~~or self-declaration~~ shall submit
21 the nonrefundable fees set forth in subsection 7 with the application at least sixty days
22 and no more than ninety days before the expiration date of the applicant's current
23 license ~~or self-declaration~~. If the nonrefundable fees and application are submitted
24 less than sixty days before the expiration date of the applicant's current license ~~or~~
25 ~~self-declaration~~, the applicant shall submit with the application two times the
26 nonrefundable fees set forth in subsection 7.

27 **SECTION 6. AMENDMENT.** Section 50-11.1-04 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **50-11.1-04. Application for license - Prerequisites for issuance - License granted -**
2 **Term.**

- 3 1. An application for operation of an early childhood program must be made on forms
4 provided, in the manner prescribed, by the department. The department or the
5 department's authorized agent shall investigate the applicant's activities and proposed
6 standards of care and shall make an inspection of all premises to be used by the early
7 childhood program applying for a license. The applicant for a license and the staff
8 members, and, if the application is for a program that will be located in a private
9 residence, every individual living in that residence must be investigated in accordance
10 with the rules adopted by the department to determine whether any of them has a
11 criminal record or has had a finding of services required for child abuse or neglect filed
12 against them. The department may use the findings of the investigation to determine
13 licensure. Except as otherwise provided, the department shall grant a license for the
14 operation of an early childhood program within thirty days of receipt of a completed
15 application and all supporting documents by the department and upon a showing:
- 16 a. The premises to be used are in fit and sanitary condition, are properly equipped
17 to provide for the health and safety for all children, and are maintained according
18 to rules adopted by the department;
 - 19 b. Staff members are qualified to fulfill the duties required of them according to the
20 provisions of this chapter and standards prescribed for their qualifications by the
21 rules of the department;
 - 22 c. The application and supporting documents do not include any fraudulent or
23 untrue representations;
 - 24 d. The owner, operator, or applicant has not had a previous license or
25 self-declaration denied or revoked within the twelve months before the date of the
26 current application, unless waived by the department after the department
27 considers the health and safety of children and licensing history of the owner,
28 operator, or applicant;
 - 29 e. The owner, operator, or applicant has not had three or more previous licenses or
30 self-declarations denied or revoked. The most recent revocation or denial may

- 1 not have occurred within the ~~five~~three years immediately preceding the
2 application date;
- 3 f. The program paid its license fees and any penalties and sanctions assessed
4 against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- 5 g. The family child care owner or operator and staff members have received training
6 and are currently certified in infant and pediatric cardiopulmonary resuscitation
7 and the use of an automated external defibrillator by the American heart
8 association, American red cross, or other similar cardiopulmonary resuscitation
9 and automated external defibrillator training programs that are approved by the
10 department, and are currently certified in first aid by a program approved by the
11 department; and
- 12 h. The group child care, preschool, school-age child care, or child care center, at all
13 times during which early childhood services are provided, staff members have
14 received training and are currently certified in infant and pediatric
15 cardiopulmonary resuscitation and the use of an automated external defibrillator
16 by the American heart association, American red cross, or other similar
17 cardiopulmonary resuscitation and automated external defibrillator training
18 programs that are approved by the department, and currently certified in first aid
19 by a program approved by the department.
- 20 2. The license issued to the owner or operator of an early childhood program may not be
21 effective for longer than ~~two years~~one year.
- 22 3. The department may consider the applicant's past licensing, self-declaration, and
23 registration history in determining whether to issue a license.
- 24 4. The department may issue a provisional or restricted license in accordance with the
25 rules of the department.
- 26 5. The department shall notify the owner or operator that the owner or operator is
27 required to post a notice of late application at the early childhood program premises if
28 the department has not received a completed application and all supporting
29 documents for licensure or self-declaration renewal at least thirty days before the
30 expiration date of the early childhood program's license.

1 **SECTION 7. AMENDMENT.** Section 50-11.1-04 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-11.1-04. Application for license - Prerequisites for issuance - License granted -**
4 **Term.**

- 5 1. An application for operation of an early childhood program must be made on forms
6 provided, in the manner prescribed, by the department. The department or the
7 department's authorized agent shall investigate the applicant's activities and proposed
8 standards of care and shall make an inspection of all premises to be used by the early
9 childhood program applying for a license. The applicant for a license and the staff
10 members, and, if the application is for a program that will be located in a private
11 residence, every individual living in that residence must be investigated in accordance
12 with the rules adopted by the department to determine whether any of them has a
13 criminal record or has had a finding of services required for child abuse or neglect filed
14 against them. The department may use the findings of the investigation to determine
15 licensure. Except as otherwise provided, the department shall grant a license for the
16 operation of an early childhood program within thirty days of receipt of a completed
17 application and all supporting documents by the department and upon a showing:
- 18 a. The premises to be used are in fit and sanitary condition, are properly equipped
19 to provide for the health and safety for all children, and are maintained according
20 to rules adopted by the department;
 - 21 b. Staff members are qualified to fulfill the duties required of them according to the
22 provisions of this chapter and standards prescribed for their qualifications by the
23 rules of the department;
 - 24 c. The application and supporting documents do not include any fraudulent or
25 untrue representations;
 - 26 d. The owner, operator, or applicant has not had a previous license or
27 ~~self-declaration~~ denied or revoked within the twelve months before the date of the
28 current application, unless waived by the department after the department
29 considers the health and safety of children and licensing history of the owner,
30 operator, or applicant;

- 1 e. The owner, operator, or applicant has not had three or more previous licenses or
2 self-declarations denied or revoked. The most recent revocation or denial may
3 not have occurred within the three years immediately preceding the application
4 date;
- 5 f. The program paid its license fees and any penalties and sanctions assessed
6 against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- 7 g. The family child care owner or operator and staff members have received training
8 and are currently certified in infant and pediatric cardiopulmonary resuscitation
9 and the use of an automated external defibrillator by the American heart
10 association, American red cross, or other similar cardiopulmonary resuscitation
11 and automated external defibrillator training programs that are approved by the
12 department, and are currently certified in first aid by a program approved by the
13 department; and
- 14 h. The group child care, preschool, school-age child care, or child care center, at all
15 times during which early childhood services are provided, staff members have
16 received training and are currently certified in infant and pediatric
17 cardiopulmonary resuscitation and the use of an automated external defibrillator
18 by the American heart association, American red cross, or other similar
19 cardiopulmonary resuscitation and automated external defibrillator training
20 programs that are approved by the department, and currently certified in first aid
21 by a program approved by the department.
- 22 2. The license issued to the owner or operator of an early childhood program may not be
23 effective for longer than one year.
- 24 3. The department may consider the applicant's past licensing, self-declaration, and
25 registration history in determining whether to issue a license.
- 26 4. The department may issue a provisional or restricted license in accordance with the
27 rules of the department.
- 28 5. The department shall notify the owner or operator that the owner or operator is
29 required to post a notice of late application at the early childhood program premises if
30 the department has not received a completed application and all supporting

1 documents for licensure ~~or self-declaration~~ renewal at least thirty days before the
2 expiration date of the early childhood program's license.

3 **SECTION 8. AMENDMENT.** Section 50-11.1-06.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **50-11.1-06.1. Conviction not bar to licensure, self-declaration, or registration -**
6 **Exceptions.**

7 Conviction of an offense does not disqualify an individual from licensure, ~~self-declaration~~, or
8 registration under this chapter unless the department determines:

- 9 1. The offense has a direct bearing upon the individual's ability to serve the public as the
10 owner or operator of an early childhood program, ~~holder of a self-declaration~~, or an
11 in-home provider; or
- 12 2. Following conviction of any offense, the individual is not sufficiently rehabilitated under
13 section 12.1-33-02.1.

14 **SECTION 9. AMENDMENT.** Section 50-11.1-06.2 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-11.1-06.2. Background investigations - Fees.**

- 17 1. Upon a determination by the department a criminal history record check is appropriate,
18 the following individuals are to obtain two sets of the individual's fingerprints from a
19 law enforcement agency or other local agency authorized to take fingerprints:
 - 20 a. A provider holding or an applicant for early childhood services licensure,
21 self-declaration, or in-home provider registration;
 - 22 b. Emergency designees and staff members of providers holding and applicants for
23 early childhood services licensure, self-declaration, or in-home provider
24 registration; and
 - 25 c. Household members of a residence out of which early childhood services are
26 provided.
- 27 2. The individual shall request the agency to submit the fingerprints and a completed
28 fingerprint card for each set to the ~~division of children and family services of the~~
29 department or to the department's authorized agent.
- 30 3. If the ~~division~~department has no record of a determination of services required for
31 child abuse or neglect, the ~~division~~department shall submit the fingerprints to the

1 bureau of criminal investigation to determine if there is any criminal history record
2 information regarding the applicant, household members, or staff members in
3 accordance with section 12-60-24.

4 4. The results of the investigations must be forwarded to the ~~division of children and~~
5 ~~family services of the department or to the department's authorized agent.~~

6 5. The ~~division~~department may charge a fee not to exceed thirty dollars for the purpose
7 of processing the application.

8 6. The ~~division~~department is not subject to the fee imposed under section 12-60-16.9
9 when requesting criminal history record information from the bureau of criminal
10 investigation.

11 7. An agency that takes fingerprints as provided under this section may charge a
12 reasonable fee to offset the costs of the fingerprinting.

13 8. The department may use background investigation findings to determine approval,
14 denial, or revocation of an early childhood services license, self-declaration, or
15 in-home registration.

16 9. Any individual who is providing early childhood services solely for the provider's own
17 children, grandchildren, nieces, nephews, and cousins as an in-home provider may
18 not be required to submit to a criminal history record check authorized under section
19 50-06-01.9.

20 10. AUnless an individual was separated from child care employment for more than one
21 hundred eighty days, a criminal history record check conducted under this section and
22 subsection 3 of section 50-06-01.9 is valid for five years, after which the department
23 shall require another criminal history record check.

24 **SECTION 10. AMENDMENT.** Section 50-11.1-06.2 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **50-11.1-06.2. Background investigations - Fees.**

27 1. Upon a determination by the department a criminal history record check is appropriate,
28 the following individuals are to obtain two sets of the individual's fingerprints from a
29 law enforcement agency or other local agency authorized to take fingerprints:

30 a. A provider holding or an applicant for early childhood services licensure,
31 ~~self-declaration,~~ or in-home provider registration;

- 1 b. Emergency designees and staff members of providers holding and applicants for
2 early childhood services licensure, ~~self-declaration~~, or in-home provider
3 registration; and
- 4 c. Household members of a residence out of which early childhood services are
5 provided.
- 6 2. The individual shall request the agency to submit the fingerprints and a completed
7 fingerprint card for each set to the department or to the department's authorized agent.
- 8 3. If the department has no record of a determination of services required for child abuse
9 or neglect, the department shall submit the fingerprints to the bureau of criminal
10 investigation to determine if there is any criminal history record information regarding
11 the applicant, household members, or staff members in accordance with section
12 12-60-24.
- 13 4. The results of the investigations must be forwarded to the department.
- 14 5. The department may charge a fee not to exceed thirty dollars for the purpose of
15 processing the application.
- 16 6. The department is not subject to the fee imposed under section 12-60-16.9 when
17 requesting criminal history record information from the bureau of criminal investigation.
- 18 7. An agency that takes fingerprints as provided under this section may charge a
19 reasonable fee to offset the costs of the fingerprinting.
- 20 8. The department may use background investigation findings to determine approval,
21 denial, or revocation of an early childhood services license, ~~self-declaration~~, or
22 in-home registration.
- 23 9. Any individual who is providing early childhood services solely for the provider's own
24 children, grandchildren, nieces, nephews, and cousins as an in-home provider may
25 not be required to submit to a criminal history record check authorized under section
26 50-06-01.9.
- 27 10. Unless an individual was separated from child care employment for more than one
28 hundred eighty days, a criminal history record check conducted under this section and
29 subsection 3 of section 50-06-01.9 is valid for five years, after which the department
30 shall require another criminal history record check.

1 **SECTION 11. AMENDMENT.** Section 50-11.1-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-11.1-07. Investigation of applicant, licensee, holder of self-declaration or**
4 **registration document, and staff members - Inspection of programs and premises -**
5 **Maintenance of records - Confidentiality of records.**

- 6 1. The department or its authorized agent at any time may investigate and inspect an
7 early childhood program, or a holder of a ~~self-declaration or~~ registration document and
8 the conditions of their premises, the qualifications of a provider of early childhood
9 services, of current and prospective staff members, of any in-home provider or
10 applicant seeking or holding a license, ~~self-declaration,~~ or registration document under
11 this chapter.
- 12 2. Upon request of the department or its authorized agent, the state department of health
13 or the state fire marshal, or the fire marshal's designee, shall inspect the premises for
14 which a license ~~or self-declaration~~ is applied or issued and shall report the findings to
15 the department or the department's authorized agent.
- 16 3. A licensee, ~~holder of a self-declaration,~~ or registrant shall:
- 17 a. Maintain records as the department prescribes regarding each child in the
18 licensee's, ~~holder's,~~ or registrant's care and control, and shall report to the
19 department or the department's authorized agent, when requested, upon forms
20 furnished by the department, facts the department may require with reference to
21 each child;
- 22 b. Admit for inspection the department or the department's authorized agent and
23 open for examination all records, books, and reports; and
- 24 c. Notify the parent of each child receiving early childhood services and all staff
25 members of the process for reporting a complaint or a suspected licensing
26 violation.
- 27 4. Except as provided in subsection 5, all records and information maintained with
28 respect to any child receiving early childhood services are confidential and must be
29 properly safeguarded and may not be disclosed except:
- 30 a. In a judicial proceeding;
- 31 b. To officers of the law or other legally constituted boards or agencies; or

1 c. To persons having a definite interest in the well-being of the child concerned and
2 who, in the judgment of the department, are in a position to serve the child's
3 interests should that be necessary.

4 5. A provider of early childhood services, upon the request of the parent of a child for
5 whom the provider provides such services, shall make available to the parent a list of
6 the names, telephone numbers, and addresses of the parents of children for whom
7 early childhood services are provided. The list may include only the names, telephone
8 numbers, electronic mail addresses, and addresses of parents who grant the provider
9 permission to disclose that information.

10 6. The following information for early childhood services licensees, ~~self-declarations,~~
11 in-home providers, staff members, and adults residing in a home out of which early
12 childhood services are provided is not confidential:

- 13 a. Name;
14 b. Address;
15 c. Telephone number; and
16 d. Electronic mail address.

17 **SECTION 12. AMENDMENT.** Section 50-11.1-07.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **50-11.1-07.1. Notice.**

20 After each inspection or reinspection, the department or the department's authorized agent,
21 by certified mail, shall send copies of any correction order or notice of noncompliance, to the
22 early childhood program ~~or holder of a self-declaration.~~

23 **SECTION 13. AMENDMENT.** Section 50-11.1-07.2 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **50-11.1-07.2. Correction orders.**

26 1. If the department or the department's authorized agent finds, upon inspection, that the
27 program, ~~self-declaration,~~ or premises is not in compliance with this chapter or the
28 rules adopted under this chapter, the department or the department's authorized agent
29 ~~shall~~may issue a correction order to the program ~~or self-declaration,~~ provided the
30 department does not revoke the license ~~or self-declaration~~ as a result of the
31 noncompliance. The correction order must cite the specific statute or rule violated,

1 state the factual basis of the violation, state the suggested method of correction, and
2 specify the time allowed for correction. The correction order must also specify the
3 amount of any fiscal sanction to be assessed if the program ~~or self-declaration~~ fails to
4 comply with the correction order in a timely fashion. This section does not apply to an
5 applicant's failure to comply with subsection 8 of section 50-11.1-03 ~~or subdivision e of~~
6 ~~subsection 1 of section 50-11.1-16.~~

- 7 2. Within three business days of the receipt of the correction order, the licensee of the
8 early childhood program ~~or the holder of a self-declaration~~ shall notify the parent of
9 each child receiving early childhood services that a correction order has been issued.
10 In addition to providing notice to the parent of each child, the licensee ~~or holder of a~~
11 ~~self-declaration~~ shall post the correction order in a conspicuous location upon the early
12 childhood premises until the violation has been corrected or for five days, whichever is
13 longer.

14 **SECTION 14. AMENDMENT.** Section 50-11.1-07.3 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-11.1-07.3. Reinspections.**

17 The department or the department's authorized agent shall reinspect or review an early
18 childhood program ~~or holder of a self-declaration~~ that was issued a correction order under
19 section 50-11.1-07.2, at the end of the period allowed for correction. If, upon reinspection or
20 review, the department determines that the program ~~or holder of a self-declaration~~ has not
21 corrected a violation identified in the correction order, the department shall mail to the program
22 ~~or the holder of a self-declaration~~, by certified mail, a notice of noncompliance with the
23 correction order. The notice must specify the violations not corrected and the penalties
24 assessed in accordance with section 50-11.1-07.5.

25 **SECTION 15. AMENDMENT.** Section 50-11.1-07.4 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **50-11.1-07.4. Fiscal sanctions.**

28 If the department or the department's authorized agent issues a notice of noncompliance
29 with a correction order to an early childhood program ~~or holder of a self-declaration~~, the
30 department shall assess fiscal sanctions in accordance with a schedule of fiscal sanctions
31 established by rules adopted by the department under subsection 2 of section 50-11.1-08. The

1 department shall assess a fiscal sanction for each day the early childhood program ~~or holder of~~
2 ~~a self-declaration~~ remains in noncompliance after the allowable time period for the correction of
3 violations ends and the sanction must continue as set forth in section 50-11.1-07.6 until the
4 department receives notice indicating the violations are corrected. The fiscal sanction for a
5 specific violation may not exceed one hundred dollars per day of noncompliance.

6 **SECTION 16. AMENDMENT.** Section 50-11.1-07.5 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-11.1-07.5. Accumulation of fiscal sanctions.**

9 An early childhood program ~~or holder of a self-declaration~~ shall promptly notify the
10 department or the department's authorized agent in writing when a violation noted in a notice of
11 noncompliance is corrected. Upon receipt of written notice by the department or the
12 department's authorized agent, the daily fiscal sanction assessed for the violation must stop
13 accruing. The department or the department's authorized agent shall reinspect or review the
14 early childhood program or premises ~~out of which the holder of the self-declaration is operating~~
15 within three working days after receipt of the notification. If, upon reinspection or review, the
16 department determines that a violation has not been corrected, the department shall resume the
17 daily assessment of fiscal sanction and shall add the amount of fiscal sanction which otherwise
18 would have accrued during the period prior to resumption to the total assessment due from the
19 program ~~or holder of the self-declaration~~. The department or the department's authorized agent
20 shall notify the facility of the resumption by certified mail. Recovery of the resumed fiscal
21 sanction must be stayed if the operator of the facility makes a written request for an
22 administrative hearing in the manner provided in chapter 28-32; provided, that written request
23 for the hearing is made to the department within ten days of the notice of resumption.

24 **SECTION 17. AMENDMENT.** Section 50-11.1-07.6 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **50-11.1-07.6. Recovery of fiscal sanctions - Hearing.**

27 Fiscal sanctions assessed pursuant to this chapter are payable fifteen days after receipt of
28 the notice of noncompliance and at fifteen-day intervals thereafter, as the fiscal sanctions
29 accrue. Recovery of an assessed fiscal sanction must be stayed if the program ~~or holder of a~~
30 ~~self-declaration~~ makes written request to the department for an administrative hearing within ten
31 days after the early childhood program ~~or the holder of the self-declaration~~ receives the notice.

1 If the appeal is unsuccessful or withdrawn, the daily assessment of fiscal sanctions must
2 resume and the department shall add the amount of fiscal sanctions which otherwise would
3 have accrued during the period prior to resumption to the total assessment due from the early
4 childhood program ~~or the holder of a self-declaration~~. The department or the department's
5 authorized agent shall notify the early childhood program ~~or the holder of a self-declaration~~ of
6 the resumption by certified mail.

7 **SECTION 18. AMENDMENT.** Subsection 1 of section 50-11.1-07.8 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. The department may:

- 10 a. Suspend a license, ~~self-declaration~~, or registration document at any time after the
11 onset of a child abuse and neglect investigation alleging the owner or operator,
12 ~~the holder of a self-declaration~~, or the in-home provider has committed child
13 abuse, including child sexual abuse, or has neglected a child and law
14 enforcement has been involved, if continued operation is likely to jeopardize the
15 health and safety of the children.
- 16 b. Suspend upon a child abuse or neglect services required determination indicating
17 that a child has been abused or neglected by the owner or operator, ~~the holder of~~
18 ~~a self-declaration~~, or the in-home provider if continued operation is likely to
19 jeopardize the health and safety of the children present.
- 20 c. Prohibit the presence of an accused owner, operator, ~~holder of a self-declaration~~,
21 in-home provider, staff member, or household member of the early childhood
22 program, ~~self-declaration~~, or in-home provider from the early childhood premises
23 when children are in child care, upon a report of child abuse or neglect at the
24 premises of the licensed program, ~~holder of the self-declaration~~, or registration,
25 or involving a staff member or household member if continued operation or the
26 presence of the accused individual is likely to jeopardize the health and safety of
27 the children present.

28 **SECTION 19. AMENDMENT.** Section 50-11.1-08 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **50-11.1-08. Minimum standards - Rules - Inspection by a governmental unit.**

31 The department may:

- 1 1. Establish reasonable minimum standards for the operation of early childhood
2 programs, ~~self-declaration~~, and the registration of in-home providers. In appropriate
3 circumstances and upon good cause shown, specific minimum standards may be
4 substituted by alternate, equivalent standards, approved by the department.
- 5 2. Take such action and make reasonable rules for the regulation of early childhood
6 services necessary to carry out the purposes of this chapter and entitle the state to
7 receive aid from the federal government.
- 8 3. Authorize a governmental unit to:
 - 9 a. Inspect the premises for which a license, ~~self-declaration~~, or registration
10 document is applied or issued under this chapter; and
 - 11 b. Certify to the department that the premises of a program, ~~holder of~~
12 ~~self-declaration~~, or registration document meets the requirements of this chapter
13 and the minimum standards prescribed by the department.

14 **SECTION 20. AMENDMENT.** Section 50-11.1-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-11.1-09. Revocation of license, ~~self-declaration~~, or registration document.**

- 17 1. The department may revoke the license, ~~self-declaration~~, or registration document of
18 any early childhood services provider upon proper showing of any of the following:
 - 19 a. Any of the applicable conditions set forth in sections 50-11.1-04, and 50-11.1-06,
20 ~~and section 50-11.1-17~~ as prerequisites for the issuance of the license,
21 ~~self-declaration~~, or registration document no longer exist.
 - 22 b. The licensee, ~~holder of a self-declaration~~, or registrant is no longer in compliance
23 with the minimum standards prescribed by the department.
 - 24 c. The license, ~~self-declaration~~, or registration document was issued upon
25 fraudulent or untrue representation.
 - 26 d. The licensee, ~~holder of a self-declaration~~, or registrant has violated any rules of
27 the department.
 - 28 e. The licensee, ~~holder of a self-declaration~~, registrant, or a household member of a
29 home out of which early childhood services are provided has been found guilty
30 of, or pled guilty to, an offense the department determines has a direct bearing

1 upon an individual's ability to serve the public as a licensee, ~~a holder of a~~
2 ~~self-declaration~~, or a registrant.

3 f. The licensee, ~~holder of a self-declaration~~, or registrant has been convicted of any
4 offense and the department, acting pursuant to section 12.1-33-02.1, has
5 determined that the individual has not been sufficiently rehabilitated.

6 g. The department may consider the early childhood services history of the
7 licensee, ~~holder of a self-declaration~~, or registrant in determining revocation of a
8 license, ~~self-declaration~~, or in-home registration document.

9 2. The department shall notify, in writing, the parent of each child receiving early
10 childhood services from the early childhood services provider that is the subject of the
11 revocation notice.

12 **SECTION 21. AMENDMENT.** Section 50-11.1-10 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **50-11.1-10. Denial or revocation of license, ~~self-declaration~~, or registration document**
15 **- Administrative hearing.**

16 Before the department may deny any application for a license, ~~self-declaration~~, or
17 registration document under this chapter or before the department may revoke any license,
18 ~~self-declaration~~, or registration document, the department shall provide a written notice to the
19 applicant, licensee, or holder of the ~~self-declaration~~ or registration document of the reasons for
20 the denial or revocation. The applicant, licensee, ~~holder of a self-declaration~~, or registrant may
21 request an administrative hearing appealing the denial or revocation in the manner provided in
22 chapter 28-32. The applicant, licensee, ~~holder of a self-declaration~~, or registrant shall make a
23 request for hearing to the department within ten days after receipt of the notice of denial or
24 revocation from the department.

25 **SECTION 22. AMENDMENT.** Section 50-11.1-12 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **50-11.1-12. Violation of chapter or rules - Injunction.**

28 The department or the department's authorized agent may seek injunctive action against an
29 individual who provides early childhood services for which licensure is required, ~~an early~~
30 ~~childhood program~~, ~~holder of a self-declaration~~, or in-home provider in the district court through

1 proceedings instituted by the attorney general on behalf of the department or by a state's
2 attorney on behalf of the authorized agent, if:

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

9 **SECTION 23. AMENDMENT.** Section 50-11.1-17 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval -**
12 **Term.**

- 13 1. A person may not submit an application for self-declaration and a holder of a self-
14 declaration may not renew a self-declaration after July 31, 2019. The department may
15 not approve an application for self-declaration or renew a self-declaration after
16 December 31, 2020. Applications for self-declarations must be made on forms
17 provided and in the manner prescribed by the department. The department or the
18 department's authorized agent shall investigate the applicant and every individual
19 living in the private residence and shall conduct a background check. The department
20 or the department's authorized agent shall conduct the investigation in accordance
21 with the rules adopted by the department and shall determine whether any of them
22 has a criminal record or has had a finding of services required for child abuse or
23 neglect filed against them. Except as otherwise provided, the department shall
24 approve a self-declaration within thirty days of receipt of a completed application and
25 all supporting documents by the department and upon the applicant's declaration:
 - 26 a. The premises to be used are in fit and sanitary condition to provide for the health
27 and safety of all children and are maintained according to the standards
28 prescribed by the rules of the department;
 - 29 b. The applicant is able to provide for the health and safety of each child receiving
30 early childhood services from the applicant according to this chapter and
31 standards prescribed by the department as set forth in its rules;

- 1 c. The applicant has not had a previous license or self-declaration denied or
2 revoked within the twelve months before the date of the current application;
- 3 d. The applicant has not had three or more previous licenses or self-declarations
4 denied or revoked. The most recent revocation or denial may not have occurred
5 within five years of the application date;
- 6 e. The applicant has paid the required application fees;
- 7 f. The applicant has paid any penalties and sanctions assessed against the
8 program required by sections 50-11.1-03 and 50-11.1-07.4;
- 9 g. The applicant is currently certified in infant and pediatric cardiopulmonary
10 resuscitation and the use of an automated external defibrillator by the American
11 heart association, the American red cross, or a similar cardiopulmonary
12 resuscitation and automated external defibrillator training program approved by
13 the department;
- 14 h. The emergency designee used by the applicant, if any, is currently certified in
15 infant and pediatric cardiopulmonary resuscitation and the use of an automated
16 external defibrillator by the American heart association, the American red cross,
17 or a similar cardiopulmonary resuscitation and automated external defibrillator
18 training program approved by the department;
- 19 i. The applicant is currently certified in first aid through a training program approved
20 by the department; and
- 21 j. The application and supporting documents do not include any fraudulent or
22 untrue representations.
- 23 2. The department may consider the early childhood services history of the applicant in
24 determining issuance of a self-declaration document.
- 25 3. The department may issue a provisional self-declaration document in accordance with
26 the rules of the department.
- 27 4. ~~The department shall notify the holder of a self-declaration that the holder of a~~
28 ~~self-declaration is required to post a notice of late application at the self-declaration~~
29 ~~premises if the department has not received a completed application and all~~
30 ~~supporting documents for licensure or self-declaration renewal at least thirty days~~
31 ~~before the expiration date of a self-declaration.~~

- 1 **SECTION 24. REPEAL.** Section 50-11.1-16 of the North Dakota Century Code is repealed.
- 2 **SECTION 25. REPEAL.** Section 50-11.1-17 of the North Dakota Century Code is repealed.
- 3 **SECTION 26. EFFECTIVE DATE.** Sections 2, 6, 9, and 23 of this Act become effective
- 4 August 1, 2019. Section 25 of this Act becomes effective January 1, 2021. The remainder of this
- 5 Act becomes effective August 1, 2020.