

**HOUSE BILL NO. 1108**

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact three new sections to chapter 50-25.1 of the North Dakota  
2 Century Code, relating to child abuse and neglect family services assessments and  
3 evidence-based screening tool records; and to amend and reenact section 50-25.1-02,  
4 subsection 1 of section 50-25.1-03, sections 50-25.1-05, 50-25.1-05.1, 50-25.1-05.4,  
5 50-25.1-06.1, and 50-25.1-09, subsection 2 of section 50-25.1-11, and subsection 8 of section  
6 50-25.1-15 of the North Dakota Century Code, relating to child abuse and neglect and family  
7 services assessments.

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

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

11 **50-25.1-02. Definitions.**

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

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

- 1 child's welfare and "sexually abused child" means an individual under the age of  
2 eighteen years who is subjected by a person responsible for the child's welfare, or by  
3 any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07,  
4 sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.
- 5 4. "Alternative response assessment" means a child protection response involving  
6 substance exposed newborns which is designed to:
- 7 a. Provide referral services to and monitor support services for a person responsible  
8 for the child's welfare and the substance exposed newborn; and  
9 b. Develop a plan of safe care for the substance exposed newborn.
- 10 5. ~~"Assessment" means a factfinding process designed to provide information that~~  
11 ~~enables a determination to be made that services are required to provide for the~~  
12 ~~protection and treatment of an abused or neglected child.~~
- 13 6. "Authorized agent" means the county social service board, unless another entity is  
14 designated by the department.
- 15 6. "Child protection assessment" means a factfinding process designed to provide  
16 information that enables a determination to be made that services are required to  
17 provide for the protection and treatment of an abused or neglected child and an  
18 evidence-based screening tool.
- 19 7. "Children's advocacy center" means a full or associate member of the national  
20 children's alliance which assists in the coordination of the investigation in response to  
21 allegations of child abuse by providing a dedicated child-friendly location at which to  
22 conduct forensic interviews, forensic medical examinations, and other appropriate  
23 services and which promotes a comprehensive multidisciplinary team response to  
24 allegations of child abuse. The team response may include forensic interviews,  
25 forensic medical examinations, mental health and related support services, advocacy,  
26 and case review.
- 27 8. "Citizen review committee" means a committee appointed by the department to review  
28 the department's provision of child welfare services.
- 29 9. "Department" means the department of human services or its designee.
- 30 10. "Family services assessment" means a child protection services response to reports of  
31 suspected child abuse or neglect in which the child is determined to be at low risk and

1           safety concerns for the child are not evident according to guidelines developed by the  
2           department and an evidence-based screening tool.

3        11. "Institutional child abuse or neglect" means situations of known or suspected child  
4        abuse or neglect when the institution responsible for the child's welfare is a residential  
5        child care facility, a treatment or care center for individuals with intellectual disabilities,  
6        a public or private residential educational facility, a maternity home, or any residential  
7        facility owned or managed by the state or a political subdivision of the state.

8        ~~11.~~12. "Local child protection team" means a multidisciplinary team consisting of the  
9        designee of the director of the regional human service center, together with such other  
10       representatives as that director might select for the team with the consent of the  
11       director of the county social service board. All team members, at the time of their  
12       selection and thereafter, must be staff members of the public or private agencies they  
13       represent or shall serve without remuneration. An attorney member of the child  
14       protection team may not be appointed to represent the child or the parents at any  
15       subsequent court proceeding nor may the child protection team be composed of fewer  
16       than three members. The department shall coordinate the organization of local child  
17       protection teams on a county or multicounty basis.

18       ~~12.~~13. "Near death" means an act ~~which~~that, as certified by a physician, places a child in  
19       serious or critical condition.

20       ~~13.~~14. "Neglected child" means a deprived child as defined in chapter 27-20.

21       ~~14.~~15. "Prenatal exposure to a controlled substance" means use of a controlled substance as  
22       defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during  
23       pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a  
24       toxicology test performed on the mother at delivery ~~or~~for the child at birth, or medical  
25       effects or developmental delays during the child's first year of life that medically  
26       indicate prenatal exposure to a controlled substance.

27       ~~15.~~16. "Protective services" includes services performed after an assessment of a report of  
28       child abuse or neglect has been conducted, such as social assessment, service  
29       planning, implementation of service plans, treatment services, referral services,  
30       coordination with referral sources, progress assessment, monitoring service delivery,  
31       and direct services.

1 ~~16-17.~~ "State child protection team" means a multidisciplinary team consisting of the  
2 designee of the department and, where possible, of a physician, a representative of a  
3 child-placing agency, a representative of the state department of health, a  
4 representative of the attorney general, a representative of the superintendent of public  
5 instruction, a representative of the department of corrections and rehabilitation, one or  
6 more representatives of the lay community, and, as an ad hoc member, the designee  
7 of the chief executive official of any institution named in a report of institutional abuse  
8 or neglect. All team members, at the time of their selection and thereafter, must be  
9 staff members of the public or private agency they represent or shall serve without  
10 remuneration. An attorney member of the child protection team may not be appointed  
11 to represent the child or the parents at any subsequent court proceeding nor may the  
12 child protection team be composed of fewer than three persons.

13 ~~17-18.~~ "Substance exposed newborn" means an infant younger than twenty-eight days of age  
14 at the time of the initial report of child abuse or neglect and who is identified as being  
15 affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum  
16 disorder.

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 50-25.1-03 of the North Dakota  
18 Century Code is amended and reenacted as follows:

- 19 1. Any dentist; optometrist; dental hygienist; medical examiner or coroner; tier 1 mental  
20 health professional, tier 2 mental health professional, tier 3 mental health professional,  
21 or tier 4 mental health professional as defined under section 25-01-01; or any other  
22 medical or mental health professional, religious practitioner of the healing arts,  
23 schoolteacher or administrator, school counselor, child care worker, foster parent,  
24 police or law enforcement officer, juvenile court personnel, probation officer, division of  
25 juvenile services employee, licensed social worker, family service specialist, child care  
26 licensor, or member of the clergy having knowledge of or reasonable cause to suspect  
27 a child is abused or neglected, or has died as a result of abuse or neglect, shall report  
28 the circumstances to the department if the knowledge or suspicion is derived from  
29 information received by that individual in that individual's official or professional  
30 capacity. A member of the clergy, however, is not required to report such

1           circumstances if the knowledge or suspicion is derived from information received in  
2           the capacity of spiritual adviser.

3           **SECTION 3. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **50-25.1-05. AssessmentChild protection assessment - Alternative response**  
6 **assessment - Family services assessment.**

- 7           1. The department, in accordance with rules adopted by the department, immediately  
8 shall initiate ~~ana~~ child protection assessment ~~or,~~ alternative response assessment, or  
9 family services assessment or cause an assessment, of any report of child abuse or  
10 neglect including, when appropriate, the child protection assessment ~~or,~~ alternative  
11 response assessment, or family services assessment of the home or the residence of  
12 the child, any school or child care facility attended by the child, and the circumstances  
13 surrounding the report of abuse or neglect.
- 14           2. According to guidelines developed by the department, the department may initiate an  
15 alternative response assessment or family services assessment if the department  
16 determines initiation is appropriate.
- 17           3. If the report alleges a violation of a criminal statute involving sexual or physical abuse,  
18 the department shall initiate a child protection assessment by contacting the law  
19 enforcement agency having jurisdiction over the alleged criminal violation. The  
20 department and an appropriate law enforcement agency shall coordinate the planning  
21 and execution of ~~their~~ the child protection assessment and law enforcement  
22 investigation efforts to avoid a duplication of factfinding efforts and multiple interviews.  
23 If the law enforcement agency declines to investigate, the department shall continue  
24 the child protection assessment to a determination.
- 25           4. The department or the law enforcement agency may:  
26           a. Refer the case to a children's advocacy center for a forensic interview, forensic  
27           medical examination, and other services.  
28           b. Interview, without the consent of a person responsible for the child's welfare, the  
29           alleged abused or neglected child and any other child who currently resides or  
30           who has resided with the person responsible for the child's welfare or the alleged  
31           perpetrator.

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

3 ~~4.5.~~ Except as prohibited under title 42, Code of Federal Regulations, part 2, a medical,  
4 dental, or mental health professional, hospital, medical or mental health facility, or  
5 health care clinic shall disclose to the department or the department's authorized  
6 agent, upon request, the records of a patient or client which are relevant to ~~ana~~ child  
7 protection assessment of reported child abuse or neglect or to a services required  
8 decision. The department, or the department's authorized agent, shall limit the request  
9 for records to the minimum amount of records necessary to enable a determination to  
10 be made or to support a determination of whether services are required to provide for  
11 the protection and treatment of an abused or neglected child.

12 ~~5.6.~~ The department shall adopt guidelines for case referrals to a children's advocacy  
13 center. When cases are referred to a children's advocacy center, all interviews of the  
14 alleged abused or neglected child conducted at the children's advocacy center under  
15 this section shall be audio-recorded or video-recorded.

16 **SECTION 4. AMENDMENT.** Section 50-25.1-05.1 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **50-25.1-05.1. Services required - How determined.**

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

- 22 1. This determination is the responsibility of the department.
- 23 2. A decision that services are required may not be made ~~when~~if the suspected child  
24 abuse or neglect arises solely out of conduct involving the legitimate practice of  
25 religious beliefs by a parent or guardian. This exception does not preclude a court  
26 from ordering that medical services be provided to the child ~~when~~if the child's life or  
27 safety requires ~~it~~such an order or the child is subject to harm or threatened harm.

28 **SECTION 5. AMENDMENT.** Section 50-25.1-05.4 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **50-25.1-05.4. Department to adopt rules for review of child protection assessment**  
2 **findings.**

3           The department shall adopt rules to resolve complaints and conduct appeal hearings  
4 requested by the subject of a report of suspected child abuse, neglect, or death resulting from  
5 abuse or neglect who is aggrieved by the conduct or result of ~~ana~~ child protection assessment.

6           **SECTION 6. AMENDMENT.** Section 50-25.1-06.1 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **50-25.1-06.1. Caseload standards - Reimbursement.**

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

19           **SECTION 7. AMENDMENT.** Section 50-25.1-09 of the North Dakota Century Code is  
20 amended and reenacted as follows:

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

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

1       **SECTION 8. AMENDMENT.** Subsection 2 of section 50-25.1-11 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       2. The department shall notify the parent or legally appointed guardian of a child  
4 receiving early childhood services under chapter 50-11.1 of the name of the subject  
5 and provide a summary of the facts and the results of ~~ana~~ child protection assessment  
6 conducted under this chapter if the report made under this chapter involves the owner,  
7 operator, staff member, or household member of the early childhood program, the  
8 holder of a self-declaration or a household member of the holder of a self-declaration,  
9 or the in-home provider or a household member of the in-home provider, who is  
10 providing care to the child.

11       **SECTION 9. AMENDMENT.** Subsection 8 of section 50-25.1-15 of the North Dakota  
12 Century Code is amended and reenacted as follows:

13       8. Upon receiving a report of an abandoned infant left at a hospital under this section, the  
14 department shall proceed as required under this chapter if it appears that the  
15 abandoned infant was not harmed, except the department may not attempt to identify  
16 or contact the parent or the agent. If it appears the abandoned infant was harmed, the  
17 department shall initiate ~~ana~~ child protection assessment of the matter as required by  
18 law.

19       **SECTION 10.** A new section to chapter 50-25.1 of the North Dakota Century Code is  
20 created and enacted as follows:

21       **Family services assessment - Compliance.**

22       If a family services assessment is initiated as a result of a report of child abuse or neglect, a  
23 decision that services are required may not be made if the person responsible for the child's  
24 welfare complies with the resulting referred services for the child. The department shall  
25 determine whether a person responsible for the child's welfare has complied with the referred  
26 services. If the department determines a person responsible for the child's welfare has not  
27 complied with the referred services for the child, a child protection assessment of the initial  
28 report of child abuse or neglect may be completed.

29       **SECTION 11.** A new section to chapter 50-25.1 of the North Dakota Century Code is  
30 created and enacted as follows:

1        **Family services assessment - Services.**

- 2        1. In response to a family services assessment, the department shall provide appropriate  
3        referral services to the person responsible for the child's welfare and the children  
4        under the same care as may be necessary for the well-being of the children.  
5        2. The department may discharge the powers and duties provided under this section  
6        through an authorized agent.

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

9        **Evidence-based screening tool records - Confidentiality - Admissibility - Privileged.**

- 10       1. Evidence-based screening tool records are confidential and may be only used for  
11       conducting a screening, treatment, referral for services, and receiving services.  
12       2. Evidence-based screening tool records are not subject to section 50-25.1-11.  
13       3. The department may release reports, data compilations, analyses, and summaries,  
14       which identify or analyze trends.  
15       4. Evidence-based screening tool records are privileged and are not subject to subpoena  
16       or discovery or introduction into evidence in any civil or administrative action.