

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1108
(Human Services Committee)
(At the request of the Department of Human Services)

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

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 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~~use disorder 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.~~
6. "Authorized agent" means the county social service board, unless another entity is designated by the department.

6. "Child protection 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 and an evidence-based screening tool.
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.
8. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
9. "Department" means the department of human services or its designee.
10. "Family services assessment" means a child protection services response to reports of suspected child abuse or neglect in which the child is determined to be at low risk and safety concerns for the child are not evident according to guidelines developed by the department and an evidence-based screening tool.
11. "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.
- ~~11-12.~~ "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.
- ~~12-13.~~ "Near death" means an act ~~which~~that, as certified by a physician, places a child in serious or critical condition.
- ~~13-14.~~ "Neglected child" means a deprived child as defined in chapter 27-20.
- ~~14-15.~~ "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~~or 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.
- ~~15-16.~~ "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.
- ~~16-17.~~ "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.

- ~~17-18.~~ "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.

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

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

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

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

1. The department, in accordance with rules adopted by the department, immediately shall initiate ~~an~~ a child protection assessment or, alternative response assessment, or family services assessment or cause an assessment, of any report of child abuse or neglect including, when appropriate, the child protection assessment or, alternative response assessment, or family services 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 or family services 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 shall initiate a child protection assessment by contacting the law enforcement agency having jurisdiction over the alleged criminal violation. The department and an appropriate law enforcement agency shall coordinate the planning and execution of theirthe child protection assessment and law enforcement investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. If the law enforcement agency declines to investigate, the department shall continue the child protection assessment to a determination.
4. 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 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.

4-5. Except as prohibited under title 42, Code of Federal Regulations, part 2, a 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 ~~ana~~ child protection 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.

5-6. 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 4. AMENDMENT. Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

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

SECTION 6. 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 child protection assessment ~~and~~ alternative response assessment, and family services 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 7. 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, assisting or furnishing information in ~~ana~~ a child protection assessment, assisting or furnishing information in an alternative response assessment, assisting or furnishing information in a family services assessment, 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 8. 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 of the name of the subject and provide a summary of the facts and the results of ~~ana~~ a child protection 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.

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

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

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

Family services assessment - Compliance.

If a family services 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 for the child. The department shall determine whether a person responsible for the child's welfare has complied with the referred services. If the department determines a person responsible for the child's welfare has not complied with the referred services for the child, a child protection assessment of the initial report of child abuse or neglect may be completed.

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

Family services assessment - Services.

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1108.

House Vote: Yeas 89 Nays 3 Absent 2

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State