

SENATE BILL NO. 2080
with Conference Committee Amendments
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Introduced by

Human Services Committee

(At the request of the Department of Health and Human Services)

1 A BILL for an Act to amend and reenact subsections 2, 4, and 5 of section 14-15-11 and section
2 27-20.3-24 of the North Dakota Century Code, relating to a licensed child-placing agency
3 investigation and adoptive child placement; to provide a statement of legislative intent; to
4 provide for a legislative management study; to provide for a legislative management report; to
5 provide a contingent effective date; to provide an effective date; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 14-15-11 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 2. An investigation must be made by a licensed child-placing agency to inquire into the
10 conditions and antecedents of a minor sought to be adopted and of the petitioner for
11 the purpose of ascertaining whether ~~the adoptive home is a suitable home for the~~
12 ~~minor and whether the:~~

13 a. The proposed adoption is in the best interest of the minor; and

14 b. The adoptive home is suitable for the minor. The licensed child-placing agency
15 shall obtain and consider the foster care assessment of an applicant who is also
16 a licensed, certified, or approved family foster home for children in the manner
17 prescribed by the department. An adoptive home is presumed suitable if, in the
18 manner prescribed by the department, the petitioner is continuously licensed,
19 certified, or approved as a family foster home for children under chapter 50-11 to
20 furnish foster care for children for more than one year without a correction order,
21 fiscal sanction, or license revocation proceeding, unless the custodial agency
22 reasonably believes the use of the foster care assessment or the licensed,
23 certified, or approved family foster home for children is not in the best interest of
24 the minor.

1 **SECTION 2. AMENDMENT.** Subsection 4 of section 14-15-11 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 4. The report of the investigation must contain a:

4 a. A review of the child's history; a

5 b. A preplacement adoption assessment of the petitioner, including a criminal
6 history record investigation of the petitioner; ~~and a~~

7 c. A postplacement evaluation of the placement with a recommendation as to the
8 granting of the petition for adoption;

9 d. The petitioner's foster care assessment to demonstrate the presumed suitability
10 of the adoptive home if a foster care assessment was considered in the
11 investigation under subsection 2 of this section; and any

12 e. Any other information the court requires regarding the petitioner or the minor.

13 **SECTION 3. AMENDMENT.** Subsection 5 of section 14-15-11 of the North Dakota Century
14 Code is amended and reenacted as follows:

15 5. An investigation and report is not required in cases in which a stepparent is the
16 petitioner or the individual to be adopted is an adult. The department and human
17 service zone, when required to consent to the adoption, may give consent without
18 making the investigation. If the petitioner is a court-appointed legal guardian or a
19 relative other than a stepparent of the minor, the minor has lived with the petitioner for
20 at least nine months, no allegations of abuse or neglect have been filed against the
21 petitioner or any member of the petitioner's household, and the court is satisfied that
22 the proposed adoptive home is appropriate for the minor, the court may waive the
23 investigation and report required under this section.

24 **SECTION 4. AMENDMENT.** Section 27-20.3-24 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **27-20.3-24. Disposition upon termination of parental rights.**

27 1. If, upon entering an order terminating the parental rights of a parent, there is no parent
28 having parental rights, the court shall:

29 a. Commit the child to the custody of the human service zone director or a licensed
30 child-placing agency willing to accept custody for the purpose of placing the child
31 for adoption or, in the absence of such an agreement, in a foster home;

- 1 b. Appoint a fit and willing relative or other appropriate individual as the child's legal
2 guardian; or
- 3 c. Establish some other planned permanent living arrangement.
- 4 2. The custodian has the rights of a legal custodian and authority to consent to the child's
5 adoption, marriage, enlistment in the armed forces of the United States, and surgical
6 and other medical treatment.
- 7 3. If the child is not placed for adoption within twelve months after the date of the order
8 and a legal guardianship or other planned permanent living arrangement for the child
9 has not been established by a court of competent jurisdiction, the child must be
10 returned to the court issuing the original termination order for entry of further orders for
11 the care, custody, and control of the child.
- 12 4. Unless sections 27-20.2-15 and 27-20.3-19 or the federal Indian Child Welfare Act of
13 1978 [25 U.S.C. 1901 et seq.] applies, and if after conducting a diligent and exhaustive
14 search, a fit and willing relative interested in adoption is not located, a human service
15 zone director or licensed child-placing agency that places a child for adoption under
16 subdivision a of subsection 1, shall consider granting the adoptive placement to a
17 licensed, certified, or approved family foster home for children provider interested in
18 adopting the child, if the licensed, certified, or approved family foster home for children
19 provider provided foster care to the child:
- 20 a. For one year or longer leading up to the termination of parental rights; and
21 b. Without a correction order, fiscal sanction, or license revocation proceeding.
- 22 5. Subsection 4 does not apply if considering the adoptive placement to the licensed,
23 certified, or approved family foster home for children provider would result in siblings
24 who are placed for adoption being placed in separate homes.

25 **SECTION 5. AMENDMENT.** Section 27-20.3-24 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **27-20.3-24. Disposition upon termination of parental rights.**

- 28 1. If, upon entering an order terminating the parental rights of a parent, there is no parent
29 having parental rights, the court shall:

- 1 a. Commit the child to the custody of the human service zone director or a licensed
2 child-placing agency willing to accept custody for the purpose of placing the child
3 for adoption or, in the absence of such an agreement, in a foster home;
- 4 b. Appoint a fit and willing relative or other appropriate individual as the child's legal
5 guardian; or
- 6 c. Establish some other planned permanent living arrangement.
- 7 2. The custodian has the rights of a legal custodian and authority to consent to the child's
8 adoption, marriage, enlistment in the armed forces of the United States, and surgical
9 and other medical treatment.
- 10 3. If the child is not placed for adoption within twelve months after the date of the order
11 and a legal guardianship or other planned permanent living arrangement for the child
12 has not been established by a court of competent jurisdiction, the child must be
13 returned to the court issuing the original termination order for entry of further orders for
14 the care, custody, and control of the child.
- 15 4. Unless chapter 27-19.1 or the federal Indian Child Welfare Act of 1978 [25 U.S.C.
16 1901 et seq.] applies, and if after conducting a diligent and exhaustive search, a fit and
17 willing relative interested in adoption is not located, a human service zone director or
18 licensed child-placing agency that places a child for adoption under subdivision a of
19 subsection 1, shall consider granting the adoptive placement to a licensed, certified, or
20 approved family foster home for children provider interested in adopting the child, if the
21 licensed, certified, or approved family foster home for children provider provided foster
22 care to the child:
 - 23 a. For one year or longer leading up to the termination of parental rights; and
 - 24 b. Without a correction order, fiscal sanction, or license revocation proceeding.
- 25 5. Subsection 4 does not apply if considering the adoptive placement to the licensed,
26 certified, or approved family foster home for children provider would result in siblings
27 who are placed for adoption being placed in separate homes.

28 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - CHILD WELFARE ISSUES.**

- 29 1. During the 2023-24 interim, the legislative management shall consider studying the
30 laws and practices of the child welfare system. The study must include a review of the:

- 1 a. Implementation of the revisions in juvenile court procedures and the new model
- 2 of practice;
- 3 b. Laws, administrative rules, and practices of the foster care and adoption
- 4 systems;
- 5 c. The timeliness of termination of parental rights;
- 6 d. Timeliness of permanency; and
- 7 e. Availability of resources to support children and families experiencing out-of-
- 8 home placement or risk of out-of-home placement.
- 9 2. The legislative management shall report its findings and recommendations, together
- 10 with any legislation required to implement the recommendations, to the sixty-ninth
- 11 legislative assembly.

12 **SECTION 7. LEGISLATIVE INTENT - CHILD WELFARE ISSUES - LEGISLATIVE**
13 **MANAGEMENT REPORT.** It is the intent of the sixty-eighth legislative assembly that the
14 department of health and human services conduct a foster care and adoption child welfare
15 redesign. The redesign must include a review of methods to streamline adoptions by licensed,
16 certified, or approved family foster home for children providers and identify a fit and willing
17 relative interested in adoption earlier in the process. The department shall report its findings and
18 recommendations to the legislative management by January 1, 2024, and every six months
19 after the initial report during the 2023-25 biennium.

20 **SECTION 8. CONTINGENT EFFECTIVE DATE.** Section 5 of this Act becomes effective on
21 October 1, 2024, if chapter 27-19.1 as created by section 1 of House Bill No. 1536 is approved
22 by the sixty-eighth legislative assembly.

23 **SECTION 9. EFFECTIVE DATE.** Sections 1, 2, and 4 become effective on October 1, 2024.

24 **SECTION 10. EMERGENCY.** Section 3 of this Act is declared to be an emergency
25 measure.