CHAPTER 50-11.1
EARLY CHILDHOOD SERVICES

50-11.1-01. Purpose.

The purpose of this chapter is to assure that children receiving early childhood services be provided food, shelter, safety, comfort, supervision, and learning experiences commensurate to their age and capabilities, so as to safeguard the health, safety, and development of those children.

50-11.1-02. Definitions.

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

1. "Authorized agent" means the human service zone, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "Department" means the department of human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
   a. Substitute parental child care provided pursuant to chapter 50-11.
   b. Child care provided in any educational facility, whether public or private, in grade one or above.
   c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.
   d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the superintendent of public instruction.
   e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
   f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
   g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
   h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
   i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
   j. Child care provided in a medical facility by medical personnel to children who are ill.
7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.
8. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.

9. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
10. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
11. "In-home provider" means any person who provides early childhood services to children in the children's home.
12. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.
13. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
14. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.
15. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
16. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
17. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
18. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
19. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
20. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
21. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
22. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
23. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
25. "Staff member" means an individual:
    a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration;
    b. Whose activities involve the care, supervision, or guidance of children of an early childhood program; or
    c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

50-11.1-02.1. Number of children in program - How determined.

For the purpose of determining the number of children receiving early childhood services, all children present on the premises and under the age of twelve years must be counted. All children present are protected by this chapter regardless of whether money is received or goods or other services are received for their care.

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

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

50-11.1-02.3. Early childhood services providers - Training on infant safe sleep practices.

The department shall adopt rules to require an early childhood service provider and the provider's staff members who are responsible for the care or teaching of children under the age of one to annually complete a department approved sudden infant death syndrome prevention training course.

50-11.1-03. Operation of early childhood services program - License required - Fees.

1. A license for family child care is required if early childhood services are provided for four or more children ages twenty-four months and under, or six or seven children through age eleven at any one time which includes no more than three children under twenty-four months of age.
2. A license for group child care is required if early childhood services are provided for at least eight and no more than thirty children at any one time.
3. A license for a child care center is required if early childhood services are provided for more than thirty children at any one time.
4. Except as provided under subsection 5, a person may not establish or operate a family child care, group child care, preschool, school-age child care, or child care center unless licensed to do so by the department.
5. A governmental organization may not establish or operate a family child care, group child care, preschool, school-age child care, or child care center without first receiving public approval by certifying, to the department or the department's authorized agent, that it has complied with all rules applicable to family child care, group child care, preschool, or school-age child care, or to child care centers.
6. A license is not required for onsite child care services located in the actual building in which the child's parent is employed, not to exceed ten children per location.
7. An applicant for a license shall submit the following nonrefundable fees with the application:
   a. The operator of a family child care applying for a license shall pay an annual license fee of twenty dollars or if the license is issued for a two-year period, a fee of thirty-five dollars.
   b. The operator of a group child care applying for a license shall pay an annual license fee of twenty-five dollars or if the license is issued for a two-year period, a fee of forty-five dollars.
   c. The operator of a preschool applying for a license shall pay an annual license fee of thirty dollars or if the license is issued for a two-year period, a fee of fifty-five dollars.
   d. The operator of a child care center applying for a license shall pay an annual license fee of forty dollars or if the license is issued for a two-year period, a fee of seventy-five dollars.
   e. The operator of a multiple licensed program applying for a license shall pay an annual license fee of fifty dollars or if the license is issued for a two-year period, a fee of ninety-five dollars.
8. An applicant for a license who currently holds a license or self-declaration shall submit the nonrefundable fees set forth in subsection 7 with the application at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before the expiration date of the applicant's current license or

self-declaration, the applicant shall submit with the application two times the nonrefundable fees set forth in subsection 7.

9. In addition to any criminal sanctions or other civil penalties that may be imposed pursuant to law, the operator of an early childhood program who, after being given written notice by the department or the department's authorized agent, continues to provide early childhood services without a license as required by this section is subject to a civil penalty of fifty dollars per day for each day of operation without the required license. The civil penalty may be imposed by the courts or by the department through an administrative hearing pursuant to chapter 28-32.
10. All fees collected under subsections 7 and 8 must be paid to the department or the department's authorized agent and must be used to defray the cost, to the department or the department's authorized agent, of investigating, inspecting, and evaluating the applications or to provide training to providers of early childhood services.

50-11.1-03.1. Family child care home operator - Cardiopulmonary resuscitation certification.

Repealed by S.L. 2009, ch. 422, § 27.

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

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing:
    a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and are maintained according to rules adopted by the department;
    b. Staff members are qualified to fulfill the duties required of the staff members according to the provisions of this chapter and standards prescribed for staff member qualifications by the rules of the department;
    c. The application and supporting documents do not include any fraudulent or untrue representations;
    d. The owner, operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the owner, operator, or applicant;
    e. The owner, operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within the three years immediately preceding the application date;
    f. The program paid its license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
    g. The family child care owner or operator and staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation

and automated external defibrillator training programs that are approved by the department, and are currently certified in first aid by a program approved by the department; and

h. The group child care, preschool, school-age child care, or child care center, at all times during which early childhood services are provided, staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and currently certified in first aid by a program approved by the department.

2. The license issued to the owner or operator of an early childhood program may not be effective for longer than two years.
3. The department may consider the applicant's past licensing, self-declaration, and registration history in determining whether to issue a license.
4. The department may issue a provisional or restricted license in accordance with the rules of the department. The department shall consider issuing a provisional or restricted license before revoking a license. The department may require the owner or operator of an early childhood program to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted license. The department shall approve the provisional license if the department approves the compliance plan. The department may revoke a license if the owner and operator fail to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.
5. The department shall notify the owner or operator that the owner or operator is required to post a notice of late application at the early childhood program premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of the early childhood program's license.

50-11.1-04.1. Operations of child care home - License.

Repealed by S.L. 1985, ch. 526, § 18.

50-11.1-05. Operation of family day care home - Registration required - Issuance of registration certificate - Term.

Repealed by S.L. 1981, ch. 491, § 19.

50-11.1-06. In-home provider - Registration voluntary - Prerequisites for approval - Issuance of registration document - Term.

An in-home provider may apply for a registration document from the department. The department or the department's authorized agent shall determine whether the applicant meets the standards and shall issue or deny a registration document based upon that determination. A registration document for an in-home provider may not be effective for longer than one year. The application and supporting documents may not include any fraudulent or untrue representations. The department may consider the early childhood services history of the applicant in determining issuance of a registration document. The department may investigate an applicant according to rules adopted by the department to determine whether the applicant has a criminal record or has been the subject of a finding of services required for child abuse and neglect. The department may issue a provisional in-home provider registration document in accordance with the rules of the department.

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

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

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

50-11.1-06.2. Background investigations - Fees.

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

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

1. The department or its authorized agent at any time may investigate and inspect an early childhood program, or a holder of a self-declaration or registration document and the conditions of their premises, the qualifications of a provider of early childhood services, of current and prospective staff members, of any in-home provider or

applicant seeking or holding a license, self-declaration, or registration document under this chapter.

2. Upon request of the department or its authorized agent, the state department of health or the state fire marshal, or the fire marshal's designee, shall inspect the premises for which a license or self-declaration is applied or issued and shall report the findings to the department or the department's authorized agent.
3. A licensee, holder of a self-declaration, or registrant shall:
   a. Maintain records as the department prescribes regarding each child in the licensee's, holder's, or registrant's care and control, and shall report to the department or the department's authorized agent, when requested, upon forms furnished by the department, facts the department may require with reference to each child;
   b. Admit for inspection the department or the department's authorized agent and open for examination all records, books, and reports; and
   c. Notify the parent of each child receiving early childhood services and all staff members of the process for reporting a complaint or a suspected licensing violation.
4. Except as provided in subsection 5, all records and information maintained with respect to any child receiving early childhood services are confidential and must be properly safeguarded and may not be disclosed except:
   a. In a judicial proceeding;
   b. To officers of the law or other legally constituted boards or agencies; or
   c. To persons having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary.
5. A provider of early childhood services, upon the request of the parent of a child for whom the provider provides such services, shall make available to the parent a list of the names, telephone numbers, and addresses of the parents of children for whom early childhood services are provided. The list may include only the names, telephone numbers, electronic mail addresses, and addresses of parents who grant the provider permission to disclose that information.
6. The following information for early childhood services licensees, self-declarations, in-home providers, staff members, and adults residing in a home out of which early childhood services are provided is not confidential:
   a. Name;
   b. Address;
   c. Telephone number; and
   d. Electronic mail address.

50-11.1-07.1. Notice.

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

50-11.1-07.2. Correction orders.

1. If the department or the department's authorized agent finds, upon inspection, the program, self-declaration, or premises is not in compliance with this chapter or the rules adopted under this chapter, the department or the department's authorized agent may issue a correction order to the program or self-declaration, provided the department does not revoke the license or self-declaration as a result of the noncompliance. The correction order must cite the specific statute or rule violated, state the factual basis of the violation, state the suggested method of correction, and specify the time allowed for correction. The correction order must also specify the amount of any fiscal sanction to be assessed if the program or self-declaration fails to comply with the correction order in a timely fashion. This section does not apply to an

applicant's failure to comply with subsection 8 of section 50-11.1-03 or subdivision c of subsection 1 of section 50-11.1-16.

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

50-11.1-07.3. Reinspections.

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

50-11.1-07.4. Fiscal sanctions.

If the department or the department's authorized agent issues a notice of noncompliance with a correction order to an early childhood program or holder of a self-declaration, the department shall assess fiscal sanctions in accordance with a schedule of fiscal sanctions established by rules adopted by the department under subsection 2 of section 50-11.1-08. The department shall assess a fiscal sanction for each day the early childhood program or holder of a self-declaration remains in noncompliance after the allowable time period for the correction of violations ends and the sanction must continue as set forth in section 50-11.1-07.6 until the department receives notice indicating the violations are corrected. The fiscal sanction for a specific violation may not exceed one hundred dollars per day of noncompliance.

50-11.1-07.5. Accumulation of fiscal sanctions.

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

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

Fiscal sanctions assessed pursuant to this chapter are payable fifteen days after receipt of the notice of noncompliance and at fifteen-day intervals thereafter, as the fiscal sanctions accrue. Recovery of an assessed fiscal sanction must be stayed if the program or holder of a self-declaration makes written request to the department for an administrative hearing within ten days after the early childhood program or the holder of the self-declaration receives the notice. If the appeal is unsuccessful or withdrawn, the daily assessment of fiscal sanctions must resume

and the department shall add the amount of fiscal sanctions which otherwise would have accrued during the period prior to resumption to the total assessment due from the early childhood program or the holder of a self-declaration. The department or the department's authorized agent shall notify the early childhood program or the holder of a self-declaration of the resumption by certified mail.

50-11.1-07.7. Disposition of fiscal sanctions.

Any fiscal sanction which is collected for any violation of this chapter or of rules adopted pursuant to this chapter must be paid into the state treasury for the general fund, after the costs of recovering the fiscal sanction are deducted therefrom.

50-11.1-07.8. Suspension of license, self-declaration, or registration document - Assessment upon a report of child abuse or neglect - Notification.

1. The department may:
   a. Suspend a license, self-declaration, or registration document at any time after the onset of a child abuse and neglect assessment alleging the owner or operator, the holder of a self-declaration, or the in-home provider:
      (1) Committed child abuse, including child sexual abuse, law enforcement has been involved, and continued operation is likely to jeopardize the health and safety of the children; or
      (2) Neglected a child, law enforcement has been involved, and continued operation is likely to jeopardize the health and safety of the children.
   b. Suspend a license, self-declaration, or registration document upon a child abuse or neglect services required determination indicating a child has been abused or neglected by the owner or operator, the holder of a self-declaration, or the in-home provider, if continued operation is likely to jeopardize the health and safety of the children present.
   c. Prohibit the presence of an accused owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member of the early childhood program, self-declaration, or in-home provider from the early childhood premises when children are in child care, upon a report of child abuse or neglect at the premises of the early childhood program, holder of the self-declaration, or registration, or involving a staff member or adult or minor household member if continued operation or the presence of the accused individual is likely to jeopardize the health and safety of the children present.
2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
   a. Shall notify the parent of any child receiving early childhood services if that program's license, self-declaration, or registration document is suspended.
   b. Shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services if an owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member of the program providing care of the child is the subject of a child abuse and neglect assessment and the department determines:
      (1) The reported child abuse or neglect places children in the early childhood program, self-declaration, or in-home provider at risk of abuse or neglect; and
      (2) If the reported child abuse or neglect occurred outside the care, supervision, or guidance of children in an early childhood program, self-declaration, or in-home provider, there was an impact or is a potential impact on care, supervision, or guidance of the children in the early childhood program, self-declaration, or in-home provider.
   c. Shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services that an owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member is prohibited from the premises of the early childhood program, self-declaration, or in-home provider under subsection 1.

3. Upon the conclusion and disposition of a child abuse and neglect assessment for which a determination services are required is found or for which the department issued a notice under subsection 2, the department shall provide notification of the disposition to the parent of each child who at the time of the determination is receiving early childhood services.
4. Notwithstanding any provision to the contrary, any action taken under this section may preclude an individual's ability to operate pending an appeal.
5. Notwithstanding subsections 2 and 3:
   a. The department may reconsider a suspension or prohibition.
   b. If law enforcement requests a delay in notification, the department may delay notifying the owner, operator, holder of a self-declaration, or in-home provider and delay notifying the parent of any child receiving early childhood services. To be valid, a law enforcement request for a notification delay must be provided to the department in writing within forty-eight hours of law enforcement receiving notification of an alleged criminal matter. A notification delay may last up to sixty days and, upon request of law enforcement, may be renewed.

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

The department may:

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

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

1. The department may revoke the license, self-declaration, or registration document of any early childhood services provider upon proper showing of any of the following:
   a. Any of the applicable conditions set forth in sections 50-11.1-04, 50-11.1-06, and section 50-11.1-17 as prerequisites for the issuance of the license, self-declaration, or registration document no longer exist.
   b. The licensee, holder of a self-declaration, or registrant is no longer in compliance with the minimum standards prescribed by the department.
   c. The license, self-declaration, or registration document was issued upon fraudulent or untrue representation.
   d. The licensee, holder of a self-declaration, or registrant has violated any rules of the department.
   e. The licensee, holder of a self-declaration, registrant, or a household member of a home out of which early childhood services are provided has been found guilty of, or pled guilty to, an offense the department determines has a direct bearing upon an individual's ability to serve the public as a licensee, a holder of a self-declaration, or a registrant.
   f. The licensee, holder of a self-declaration, or registrant has been convicted of any offense and the department, acting pursuant to section 12.1-33-02.1, has determined that the individual has not been sufficiently rehabilitated.
   g. The department may consider the early childhood services history of the licensee, holder of a self-declaration, or registrant in determining revocation of a license, self-declaration, or in-home registration document.

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

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

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

50-11.1-11. Public agency purchase of early childhood services.

No agency of state or local government may purchase early childhood services, including care provided by or in the home of a relative, unless the early childhood program is licensed, registered, or approved by the department.

50-11.1-11.1. Resource and referral services - Authority of department to make grants - Federal funds - Components.

1. The department may make grants to public and private nonprofit entities for the planning, establishment, expansion, improvement, or operation of early childhood services. Public or private entities may apply to the department for funding. Applicants shall apply for grants on forms provided by the department. Applications for grants using funds received by the state under subsection 2 must include assurances that federal requirements have been met.
2. The department shall submit an application annually to the United States secretary of health and human services for the purpose of obtaining the state's allotment of funds authorized under chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. 9871-9877] or under any subsequent federal law providing funding for child care and development programs.
3. Each entity providing early childhood resource and referral services shall identify all existing related early childhood services through information provided by all relevant public and private entities in the areas of service and must develop a resource file of these services which must be maintained and updated at least quarterly. The services must include early childhood services as identified in section 50-11.1-02.
4. Each entity providing early childhood resource and referral services shall establish a referral process that responds to parental needs for information, fully ensures the confidentiality of records and information as required under subsection 4 of section 50-11.1-07, affords parents maximum access to all referral information, and includes telephone referral available for no less than twenty hours per week and access via the internet. Each entity shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.
5. All early childhood services resource and referral entities shall maintain documentation of the number of calls and contacts received and may collect and maintain the following information:
   a. Ages of children served.
   b. Time category of child care request for each child.
   c. Special time category, such as nights, weekends, or swing shift.
   d. The reason child care is needed.
6. Each early childhood services resource and referral entity shall have available, as an educational aid to parents, information on available parent, early childhood, and family

education programs in the community and information on aspects of evaluating the quality and suitability of early childhood services, including licensing regulation, financial assistance availability, child abuse reporting procedures, and appropriate child development information.

7. A child care resource and referral entity shall provide technical assistance to existing and potential providers of all types of early childhood services and to employers. This assistance must include:
   a. Information on all aspects of initiating new early childhood services, including licensing, zoning, program and budget development, and assistance in finding information from other sources;
   b. Information and resources which help existing early childhood service providers to maximize their ability to serve the children and parents of their community;
   c. Dissemination of information on current public issues affecting the local and statewide delivery of early childhood services;
   d. Facilitation of communication between existing early childhood service providers and child-related services in the community served;
   e. Recruitment of licensed providers; and
   f. Options, and the benefits available to employers utilizing the various options, to expand child care services to employees.
8. Services prescribed by this section must be designed to maximize parental choice in the selection of early childhood services and to facilitate the maintenance and development of such services and resources.

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

The department or the department's authorized agent may seek injunctive action against an individual who provides early childhood services for which licensure is required, an early childhood program, holder of a self-declaration, or in-home provider in the district court through proceedings instituted by the attorney general on behalf of the department or by a state's attorney on behalf of the authorized agent, if:

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

50-11.1-13. Penalty.

Any person, partnership, firm, corporation, limited liability company, association, or organization who violates any of the provisions of this chapter is guilty of a class B misdemeanor.

50-11.1-13.1. Penalty for provision of services - When applicable.

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:
   a. Those services are provided after that individual is required to register as a sexual offender;
   b. The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; or
   c. The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or

registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual.

2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.

50-11.1-14. Workforce development.

The department may establish a statewide system to build systematic early childhood workforce voluntary training which may include distance learning formats, a professional registry, certificates, and specializations.

50-11.1-14.1. Workforce development - Quality improvement - Technical assistance - Capacity building.

1. The department shall provide voluntary, progressive training opportunities leading to credentials and shall provide supports for the early childhood care and education workforce. The department shall implement a registry to track workforce participation.
2. The department shall implement a voluntary quality improvement process for licensed early childhood facilities. The department may provide a quality incentive payment and a higher reimbursement rate for child care assistance program payments to a participating early childhood facility. The department may provide technical assistance and support to an early childhood facility that applies for quality improvement and may provide financial incentives to an early childhood facility that sustains and increases program quality. The department may contract with a private, nonprofit agency to provide technical assistance under this subsection.
3. The department may provide supports and incentives to build child care capacity, including:
   a. Technical assistance and support to individuals who want to establish a new program or expand existing capacity to include information on needs assessments, regulatory processes, facility design and furnishings, startup and operating budgets, staffing patterns, curriculum evaluation, and development of business plans.
   b. Grants to programs with a viable business plan to support early childhood facility development and expansion in areas with a demonstrated need.
4. The department shall coordinate with other state agencies as necessary to implement the provisions of this section.

50-11.1-15. Early childhood services advisory board - Membership - Duties.

1. The early childhood services advisory board is composed of seven members appointed by the director of the department. The members of the board must include a broad-based geographically distributed membership. The term of office is four years expiring on July thirty-first with no more than two terms expiring in any one year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as the original appointment, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. A member also is entitled to be reimbursed up to one hundred dollars per day for the expenses incurred by the member which relate to the hiring of a substitute early childhood services provider in order that the member may attend meetings and perform the member's official duties.
2. The early childhood services advisory board shall:

a. Advise the department each time the department reviews early childhood services rules;
b. Upon the completion of the department's review, with the assistance of the department, conduct an analysis of and make recommendations to the department regarding the department's review of the early childhood services rules, however, final approval of any administrative rule changes must be completed through the administrative rulemaking process set forth in chapter 28-32; and
c. On an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules. The recommendations, the goal of which is to streamline and improve the quality of the early childhood services process, must seek to balance the need for rules that ensure safe quality child care with the need to revise or eliminate rules that create unnecessary barriers for early childhood service providers.

50-11.1-16. Self-declaration - Approved application required - Fees.

1. a. An application for self-declaration is voluntary. If an individual applies for self-declaration from the department, the department or the department's authorized agent shall determine whether the standards for self-declaration have been met and shall approve or deny a self-declaration based upon that determination.
   b. An applicant for self-declaration shall pay a nonrefundable fee of fifteen dollars at the time the application is filed.
   c. An applicant for self-declaration, who currently holds a license or self-declaration, shall submit the nonrefundable fees with the application at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before expiration of the applicant's current license or self-declaration, the applicant shall submit with the application two times the regular nonrefundable fees.
2. All fees collected under this section must be paid to the department or the department's authorized agent and must be used to defray the cost of investigating, inspecting, and evaluating applications for self-declarations or to provide training to providers of early childhood services.

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

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department or the department's authorized agent shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department or the department's authorized agent shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Except as otherwise provided, the department shall approve a self-declaration within thirty days of receipt of a completed application and all supporting documents by the department and upon the applicant's declaration:
   a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and are maintained according to the standards prescribed by the rules of the department;
   b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in the rules of the department;
   c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;

d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within five years of the application date;
e. The applicant has paid the required application fees;
f. The applicant has paid any penalties and sanctions assessed against the program required by sections 50-11.1-03 and 50-11.1-07.4;
g. The applicant is currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;
h. The emergency designee used by the applicant, if any, is currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;
i. The applicant is currently certified in first aid through a training program approved by the department; and
j. The application and supporting documents do not include any fraudulent or untrue representations.

2. The department may consider the early childhood services history of the applicant in determining issuance of a self-declaration document.
3. The department may issue a provisional self-declaration document in accordance with the rules of the department. The department shall consider issuing a provisional or restricted self-declaration document before revoking a self-declaration document. The department may require the holder of a self-declaration to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted self-declaration document. The department shall approve the provisional self-declaration document if the department approves the compliance plan. The department may revoke a self-declaration document if the holder of a self-declaration fails to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.
4. The department shall notify the holder of a self-declaration that the holder of a self-declaration is required to post a notice of late application at the self-declaration premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of a self-declaration.

50-11.1-18. Early childhood services inclusion support services and grant program.

1. The department may establish in collaboration with the department of commerce an early childhood services inclusion grant program for early childhood services providers that provide, or applicants for licensure who indicate they will provide, care for children with disabilities or developmental delays. The grant program must be designed to:
   a. Support the staffing needs to expand the ability to care for children with disabilities or developmental delays; and
   b. Assist in modifying or adapting the early childhood services setting as needed to address the health, safety, and developmental needs of children with disabilities or developmental delays.
2. The department may fund early childhood services specialists to make available technical assistance to early childhood services providers that care for children with special needs or developmental delays. The technical assistance program must be designed to:
   a. Assist early childhood services providers that request support and information regarding caring for children with special needs or developmental delays;

b. Assist early childhood services providers in adapting the program environment and care practices to meet the individual child's needs and to build the early childhood services providers' capacity to serve children with special needs or developmental delays;
c. In partnership with the child's parents and health care provider, assist the early childhood services provider in the development or coordination of care plans for children with special needs or special health care needs relevant to the care setting;
d. In partnership with the child's parents, foster communication with the team of specialists serving the child to ensure consistency in therapy practices and appropriate approaches;
e. Provide classroom training to early childhood services providers to assist the providers in the integration of children with special needs; and
f. As requested by the early childhood services providers, conduct one-on-one training at the provider's business to assist the provider in the integration of children with special needs.

3. The department may establish a grant review committee to assist in the development of grant guidelines, the review of applications, and the determination of awards or denials. The membership of the grant review committee must include representation from each of the following:
   a. The department of human services;
   b. The department of public instruction;
   c. The North Dakota training and information center;
   d. Child care aware of North Dakota;
   e. Parents of children with disabilities or at risk for developmental delays; and
   f. Other appropriate partners.
4. To be eligible for the grant program, the early childhood services provider must:
   a. Be state-licensed, self-declared, or in the process of applying for licensure;
   b. Collaborate with service providers that provide formal supports to the child or children with disabilities or developmental delays; and
   c. Work with the child's family and an inclusion or health specialist to complete a care plan appropriate for the child care setting.
5. The department shall give priority consideration to licensed early childhood services providers that care for children with disabilities.
6. For purposes of this section, a child with disabilities or who is at risk for developmental delays includes any child in this state between the ages of birth and twelve years who receives support through either public or private services and includes a child who is in the process of being evaluated for public or private formal support. A child who is at risk for developmental delays includes any child between the ages of birth and twelve years who received foster care services; who has a previous substantiated history as a victim of child abuse, neglect, or domestic violence; who is homeless; who has documented special health care needs; or who has a parent with a significant disability.
7. The department may accept gifts, grants, and donations from any source to assist the department in the establishment and implementation of the early childhood services inclusion support services and grant program. Any gifts, grants, and donations received are appropriated to the department on a continuing basis for the purpose of funding the early childhood services inclusion support services and grant program under this section.

50-11.1-19. Play area regulation.

If a facility licensed under this chapter has sufficient indoor recreation space, the department may not require outdoor play space.

50-11.1-20. Staffing requirements.

Expired under S.L. 2013, ch. 376, § 10.