

September 2002

Introduced by

1 A BILL for an Act to amend and reenact sections 50-12-01, 50-12-02, and 50-12-03,  
2 subsection 1 of section 50-12-03.2, subsection 3 of section 50-12-04, sections 50-12-06,  
3 50-12-07, 50-12-08, and 50-12-09, subsection 1 of section 50-12-10, and sections 50-12-12,  
4 50-12-14.1, and 50-12-17 of the North Dakota Century Code, relating to licensure of  
5 child-placing agencies; to repeal section 50-12-13 of the North Dakota Century Code, relating to  
6 child-placing agency licensure appeals; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 50-12-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **50-12-01. ~~Child-placing agency~~ Definitions.** ~~The term "child-placing agency" when~~  
11 As used in this chapter, unless the context or subject matter otherwise requires,;

12 1. "Child-placing agency" means any person, partnership, voluntary association,  
13 corporation, or limited liability company undertaking to place children in family  
14 homes for temporary or permanent care.

15 2. "Placement" means the transfer of physical custody of a child from a birth parent  
16 for temporary or permanent care.

17 **SECTION 2. AMENDMENT.** Section 50-12-02 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **50-12-02. Child-placing agency licensed.** Every child-placing agency shall secure a  
20 license ~~annually~~ from the department of human services.

21 **SECTION 3. AMENDMENT.** Section 50-12-03 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **50-12-03. Requirements for license - Term.** ~~Licenses~~ The department of human  
24 services shall issue licenses for the conduct of child-placing agencies ~~must be issued by the~~

1 ~~department of human services~~ upon application ~~and~~. Licenses must be granted for a period not  
2 exceeding ~~one year~~ two years. ~~Such licenses~~ Licenses must be issued to reputable and  
3 responsible applicants upon a showing that they, and their agents, are equipped properly by  
4 training and experience to find and select suitable temporary or permanent homes for children  
5 and to supervise ~~such~~ the homes when children are placed in them, to the end that the health,  
6 morality, and general well-being of children placed by them will be properly safeguarded.

7 **SECTION 4. AMENDMENT.** Subsection 1 of section 50-12-03.2 of the North Dakota  
8 Century Code is amended and reenacted as follows:

- 9 1. A child-placing agency shall include, in any adoptive home study report, the results  
10 of a criminal history record investigation made under this section. If the results  
11 reveal a conviction of a crime described in chapter 50-11.3, the home study report  
12 must include a determination that a home provided by the prospective adoptive  
13 parent is not a suitable home for the placement of any child and a recommendation  
14 that the petition for adoption be denied. A child-placing agency shall consider any  
15 criminal history record information available when making a recommendation in a  
16 home study report.

17 **SECTION 5. AMENDMENT.** Subsection 3 of section 50-12-04 of the North Dakota  
18 Century Code is amended and reenacted as follows:

- 19 3. Whether the licensee is authorized to find ~~temporary foster~~ or ~~permanent adoptive~~  
20 homes for children, or both.

21 **SECTION 6. AMENDMENT.** Section 50-12-06 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **50-12-06. Placement contract.** Every child-placing agency upon placing a child in a  
24 foster or an adoptive home shall enter ~~into~~ a written agreement with the persons taking the child  
25 ~~which~~. The agreement must provide:

- 26 1. The placing agency ~~shall have~~ has access at all reasonable times to such child  
27 and to the home in which the child is living; and  
28 2. For the return of the child to the placing agency whenever in the opinion of ~~such~~  
29 the agency, or of the department of human services, the best interests of the child  
30 ~~shall~~ require the return.

1           **SECTION 7. AMENDMENT.** Section 50-12-07 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **50-12-07. Duties of licensee.** Every licensee shall:

- 4           1. Keep a full record and social history of each child received for placement and a  
5 similar record and history of his family.
- 6           2. Report to the department of human services:
  - 7           a. The name and address of each child to be placed in a ~~permanent~~ foster or an  
8 adoptive home-;
  - 9           b. The name and address of the proposed foster or adoptive parents-; and
  - 10           c. ~~Such~~ Any other facts and information as ~~shall be~~ requested by the  
11 department.
- 12           3. Visit the proposed foster or adoptive home at frequent intervals and make all  
13 necessary inquiries and investigations as may be necessary to determine whether  
14 the child will become properly adjusted in ~~said~~ the home.
- 15           4. Continue to visit and supervise each placement as often as may be required by the  
16 department and report in writing to the department the conditions as ascertained by  
17 ~~such~~ a visit.

18           **SECTION 8. AMENDMENT.** Section 50-12-08 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **50-12-08. Child must be placed in suitable home - Department may remove child.**

21 A child may not be placed in any foster or adoptive home until adequate investigation has been  
22 made as to the suitability of the proposed foster or adoptive parents and their home  
23 surroundings. ~~Whenever~~ When the department of human services is satisfied that a child has  
24 been placed in an unsuitable home ~~it, the department~~ shall order the child-placing agency, in  
25 writing, to remove the child and place ~~it~~ the child in a home ~~which~~ that meets ~~with~~ the approval  
26 of the department. If within a reasonable period of time it appears that suitable arrangements  
27 have not been made for the care of the child, the department shall refer the child to the county  
28 social service board of the county in which the child has legal settlement. The county social  
29 service board shall make immediate arrangements, subject to the approval of the department,  
30 for the care and support of the child. If the child has no legal settlement within the state, or in  
31 case of a dispute as to the determination of the child's legal settlement or responsibility for the

child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

**SECTION 9. AMENDMENT.** Section 50-12-09 of the North Dakota Century Code is amended and reenacted as follows:

**50-12-09. Compensation for child placing - Fees.** A child-placing agency in making an adoptive placement may be reimbursed by the adoptive couple for the cost of making the adoptive study of the home and the supervision and evaluation of any placement which may be made prior to the legal adoption. No couple may be deprived of receiving a child for adoption on the basis of inability to pay any portion of such expense. Fees charged for adoption services must be justified by the agency's expenses for the services. A child-placing agency shall notify the department of any increase in fees and provide accompanying documentation justifying the increase. Excessive fees may be grounds for license revocation.

**SECTION 10. AMENDMENT.** Subsection 1 of section 50-12-10 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Any of the conditions set forth in section 50-12-03 as prerequisites for the issuance of the license no longer exist.~~ The licensee has violated any requirements under this chapter.

**SECTION 11. AMENDMENT.** Section 50-12-12 of the North Dakota Century Code is amended and reenacted as follows:

**50-12-12. Denial or revocation of license - Hearing.** Before any application for a license ~~to conduct a child-placing agency under this chapter~~ may be denied; or before the revocation of any ~~such~~ license may take place, written charges as to the reasons therefor must be served upon the applicant or licensee. ~~Such~~ The applicant or licensee has the right to a ~~an~~ administrative hearing ~~before the department of human services, if such a hearing is requested, within thirty days after service of the written charges as provided under chapter 28-32 if written request for the hearing is made to the department within thirty days after service of the written charges.~~

**SECTION 12. AMENDMENT.** Section 50-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-12-14.1. Conditions for placement of children in state - Consent of department required.** Any person, ~~partnership, association, corporation, limited liability company,~~

~~charitable agency, or other entity~~ undertaking to bring or to send a child into this state for placement in foster care ~~or~~, as a preliminary to a possible adoption, or for permanent guardianship shall furnish the department of human services with written notice of the intention to send, bring, or place the child in the state and shall obtain prior written consent from the department for each child to be so placed. The notice must contain:

1. The name, date, and place of birth of the child-;
2. The identity and address or addresses of the parent or legal guardian-;
3. The name and address of the person, agency, or institution to or with which the child is proposed to be placed-;
4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made-; and
5. ~~Such~~ Any supporting or additional information as the department ~~may deem~~ determines necessary under the circumstances.

This section does not apply to the sending or bringing of a child into this state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in this state.

**SECTION 13. AMENDMENT.** Section 50-12-17 of the North Dakota Century Code is amended and reenacted as follows:

**50-12-17. Penalty.** ~~No~~ A person may not place or cause to be placed any child in a family home for adoption without a license so to do from the department of human services except that a parent, upon giving written notice to the department, may place ~~his or her own~~ the parent's child in the home of the child's grandparent, uncle, or aunt for adoption by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. ~~Every~~ A person who violates ~~any provision in~~ this chapter is guilty of a class C felony. For purposes of this section, "to place or cause to be placed" means to place a child for adoption; arrange or provide for short-term foster care for a child pending an adoptive placement; facilitate placement of a child by maintaining a list in any form of birth parents or prospective adoptive parents; or advertise in any public medium that the person knows of a child who is available for adoption, is willing to accept a child for adoption, or knows of prospective adoptive parents of a child.

1           **SECTION 14. REPEAL.** Section 50-12-13 of the North Dakota Century Code is  
2 repealed.