

HOUSE BILL NO. 1037

Introduced by

Legislative Council

(Family Law Committee)

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

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

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

5 **50-12-09. Compensation for child placing - Fees.** A child-placing agency in making
6 an adoptive placement may be reimbursed by the adoptive couple for the cost of making the
7 adoptive study of the home and the supervision and evaluation of any placement which may be
8 made prior to the legal adoption. No couple may be deprived of receiving a child for adoption
9 on the basis of inability to pay any portion of such expense. Fees charged for adoption
10 services must be justified by the agency's expenses for the services. A child-placing agency
11 shall notify the department of any increase in fees and provide accompanying documentation
12 justifying the increase. Excessive fees may be grounds for license revocation.

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

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

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

20 **50-12-12. Denial or revocation of license - Hearing.** Before any application for a
21 ~~license to conduct a child placing agency under this chapter~~ may be denied; or before the
22 revocation of any ~~such~~ license may take place, written charges as to the reasons therefor must
23 be served upon the applicant or licensee. ~~Such~~ The applicant or licensee has the right to a
24 administrative hearing before the department of human services, if such a hearing is requested,
25 ~~within thirty days after service of the written charges~~ as provided under chapter 28-32 if written
26 request for the hearing is made to the department within thirty days after service of the written
27 charges.

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

30 **50-12-14.1. Conditions for placement of children in state - Consent of department**
31 **required.** Any person, ~~partnership, association, corporation, limited liability company,~~

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

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

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

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

19 **50-12-17. Penalty.** ~~No~~ A person may not place or cause to be placed any child in a
20 family home for adoption without a license ~~se~~ to do so from the department of human services
21 except that a parent, upon giving written notice to the department, may place ~~his or her own~~ the
22 parent's child in the home of the child's grandparent, uncle, or aunt for adoption by the person
23 receiving the child. The child must be considered abandoned if proceedings for the adoption or
24 guardianship of the child are not initiated by such relative within one year following the date of
25 notice of placement. ~~Every~~ A person who violates ~~any provision in~~ this chapter is guilty of a
26 class C felony. For purposes of this section, "to place or cause to be placed" means to place a
27 child for adoption; arrange or provide for short-term foster care for a child pending an adoptive
28 placement; facilitate placement of a child by maintaining a list in any form of birth parents or
29 prospective adoptive parents; or advertise in any public medium that the person knows of a
30 child who is available for adoption, is willing to accept a child for adoption, or knows of
31 prospective adoptive parents of a child.

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