

**FIRST ENGROSSMENT
with House Amendments**

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2100

Introduced by

Judiciary Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 50-25.1-02, 50-25.1-03, 50-25.1-03.1,
2 50-25.1-04.4, and 50-25.1-05 and subsection 4 of section 50-25.1-11 of the North Dakota
3 Century Code, relating to definitions, persons required and permitted to report child abuse,
4 persons allowed access to child fatality review panel records, who may investigate reports of
5 child abuse or neglect when the accused is not a person responsible for the child's health or
6 welfare, information available for use in assessments, and information that may be provided to
7 a person who is the subject of a report alleging child abuse or neglect.

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

9 **SECTION 1. AMENDMENT.** Section 50-25.1-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-25.1-02. Definitions.** In this chapter, unless the context or subject matter otherwise
12 requires:

- 13 1. "A person responsible for the child's welfare" means a person who has
14 responsibility for the care or supervision of a child and who is the child's parent, an
15 adult family member of the child, any member of the child's household, the child's
16 guardian, or the child's foster parent; or an employee of, or any person providing
17 care for the child in, a public or private school or nonresidential child care facility;
18 ~~an employee of a public or private residential home, institution, or agency; or a~~
19 ~~person responsible for the child's welfare in a residential setting.~~
20 2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol abuse or
21 dependence as defined in the current diagnostic and statistical manual published
22 by the American psychiatric association or a maladaptive use of alcohol with
23 negative medical, sociological, occupational, or familial effects.

- 1 3. "Abused child" means an individual under the age of eighteen years who is
2 suffering from ~~serious physical harm or traumatic abuse~~ as defined in subdivision a
3 of subsection 1 of section 14-09-22 caused by ~~other than accidental means~~ by a
4 person responsible for the child's welfare, ~~or who is suffering from or was~~
5 ~~subjected~~ and "sexually abused child" means an individual under the age of
6 eighteen years who is subjected by a person responsible for the child's welfare to
7 any act in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11
8 through 12.1-20-12.2, or chapter 12.1-27.2.
- 9 4. "Assessment" means a factfinding process designed to provide information that
10 enables a determination to be made that services are required to provide for the
11 protection and treatment of an abused or neglected child.
- 12 5. "Authorized agent" means the county social service board, unless another entity is
13 designated by the department.
- 14 6. "Children's advocacy center" means a full or associate member of the national
15 children's alliance which assists in the coordination of the investigation in response
16 to allegations of child abuse by providing a dedicated child-friendly location at
17 which to conduct forensic interviews, forensic medical examinations, and other
18 appropriate services and which promotes a comprehensive multidisciplinary team
19 response to allegations of child abuse. The team response may include forensic
20 interviews, forensic medical examinations, mental health and related support
21 services, advocacy, and case review.
- 22 7. "Citizen review committee" means a committee appointed by the department to
23 review the department's provision of child welfare services.
- 24 8. "Department" means the department of human services or its designee.
- 25 9. ~~"Harm" means negative changes in a child's health which occur when a person~~
26 ~~responsible for the child's welfare:~~
- 27 a. ~~Inflicts, or allows to be inflicted, upon the child, physical or mental injury,~~
28 ~~including injuries sustained as a result of excessive corporal punishment; or~~
- 29 b. ~~Commits, allows to be committed, or conspires to commit, against the child, a~~
30 ~~sex offense as defined in chapter 12.1-20.~~

- 1 ~~40.~~ "Institutional child abuse or neglect" means situations of known or suspected child
2 abuse or neglect where the ~~person~~ institution responsible for the child's welfare is
3 ~~an employee~~ of a residential child care facility, a treatment or care center for
4 mentally retarded, a public or private residential educational facility, a maternity
5 home, or any residential facility owned or managed by the state or a political
6 subdivision of the state.
- 7 ~~44.~~ 10. "Local child protection team" means a multidisciplinary team consisting of the
8 designee of the director of the regional human service center, together with such
9 other representatives as that director might select for the team with the consent of
10 the director of the county social service board. All team members, at the time of
11 their selection and thereafter, must be staff members of the public or private
12 agencies they represent or shall serve without remuneration. An attorney member
13 of the child protection team may not be appointed to represent the child or the
14 parents at any subsequent court proceeding nor may the child protection team be
15 composed of fewer than three members. The department shall coordinate the
16 organization of local child protection teams on a county or multicounty basis.
- 17 ~~42.~~ 11. "Neglected child" means a deprived child as defined in chapter 27-20.
- 18 ~~43.~~ 12. "Prenatal exposure to a controlled substance" means use of a controlled
19 substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical
20 purpose during pregnancy as evidenced by withdrawal symptoms in the child at
21 birth, results of a toxicology test performed on the mother at delivery of the child at
22 birth, or medical effects or developmental delays during the child's first year of life
23 that medically indicate prenatal exposure to a controlled substance.
- 24 ~~44.~~ 13. "Protective services" includes services performed after an assessment of a report
25 of child abuse or neglect has been conducted, such as social assessment, service
26 planning, implementation of service plans, treatment services, referral services,
27 coordination with referral sources, progress assessment, monitoring service
28 delivery, and direct services.
- 29 ~~45.~~ 14. "State child protection team" means a multidisciplinary team consisting of the
30 designee of the department and, where possible, of a physician, a representative
31 of a child-placing agency, a representative of the state department of health, a

1 representative of the attorney general, a representative of the superintendent of
2 public instruction, a representative of the department of corrections and
3 rehabilitation, one or more representatives of the lay community, and, as an ad hoc
4 member, the designee of the chief executive official of any institution named in a
5 report of institutional abuse or neglect. All team members, at the time of their
6 selection and thereafter, must be staff members of the public or private agency
7 they represent or shall serve without remuneration. An attorney member of the
8 child protection team may not be appointed to represent the child or the parents at
9 any subsequent court proceeding nor may the child protection team be composed
10 of fewer than three persons.

11 **SECTION 2. AMENDMENT.** Section 50-25.1-03 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **50-25.1-03. Persons required and permitted to report - To whom reported.**

- 14 1. Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any
15 other medical or mental health professional, religious practitioner of the healing
16 arts, schoolteacher or administrator, school counselor, addiction counselor, social
17 worker, ~~day child care center or any other child care worker~~, foster parent, police
18 or law enforcement officer, juvenile court personnel, probation officer, division of
19 juvenile services employee, or member of the clergy having knowledge of or
20 reasonable cause to suspect that a child is abused or neglected, or has died as a
21 result of abuse or neglect, shall report the circumstances to the department if the
22 knowledge or suspicion is derived from information received by that person in that
23 person's official or professional capacity. A member of the clergy, however, is not
24 required to report such circumstances if the knowledge or suspicion is derived from
25 information received in the capacity of spiritual adviser.
- 26 2. Any person having reasonable cause to suspect that a child is abused or
27 neglected, or has died as a result of abuse or neglect, may report such
28 circumstances to the department.

29 **SECTION 3. AMENDMENT.** Section 50-25.1-03.1 of the North Dakota Century Code
30 is amended and reenacted as follows:

1 **50-25.1-03.1. Photographs - X-rays - Medical tests.** Any person or official required
2 to report under this chapter may cause to be taken color photographs of the areas of trauma
3 visible on a child who ~~is the subject of a report~~ the person or official has knowledge or
4 reasonable cause to suspect is an abused or neglected child and, if indicated by medical
5 consultation, cause to be performed imaging studies, laboratory tests, colposcopies, and other
6 medical tests of the child without the consent of the child's parents or guardian. All
7 photographs and other visual images taken pursuant to this section must be taken by law
8 enforcement officials, physicians, or medical facility professionals upon the request of any
9 person or official required to report under this chapter. Photographs and visual images, or
10 copies of them, must be sent to the department or the department's designee at the time the
11 initial report of child abuse or neglect is made or as soon thereafter as possible. Imaging
12 studies or copies of the studies and copies of results of other tests conducted under this section
13 must be provided to the department or the department's designee upon request.

14 **SECTION 4. AMENDMENT.** Section 50-25.1-04.4 of the North Dakota Century Code
15 is amended and reenacted as follows:

16 **50-25.1-04.4. Child fatality review panel - Access to records.** Upon the request of a
17 coroner or the presiding officer of a child fatality review panel, any hospital, physician, medical
18 professional, medical facility, mental health professional, ~~or mental health facility,~~ school
19 counselor, or division of juvenile services employee shall disclose all records of that entity with
20 respect to any child who has or is eligible to receive a certificate of live birth and who has died.
21 The person submitting the request shall reimburse the disclosing entity for the actual costs of
22 assembling and disclosing the information.

23 **SECTION 5. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **50-25.1-05. Assessment.**

26 1. The department, in accordance with rules adopted by the department, immediately
27 shall initiate an assessment, or cause an assessment, of any report of child abuse
28 or neglect including, when appropriate, the assessment of the home or the
29 residence of the child, any school or child care facility attended by the child, and
30 the circumstances surrounding the report of abuse or neglect.

1 2. If the report alleges a violation of a criminal statute involving sexual or physical
2 abuse, the department and an appropriate law enforcement agency shall
3 coordinate the planning and execution of their investigation efforts to avoid a
4 duplication of factfinding efforts and multiple interviews. The department or the law
5 enforcement agency may ~~refer~~:

6 a. Refer the case to a children's advocacy center for a forensic interview,
7 forensic medical examination, and other services. ~~The department or~~
8 ~~appropriate law enforcement agency may interview~~

9 b. Interview, without the consent of a person responsible for the child's welfare,
10 the alleged abused or neglected child and any other child who currently
11 resides or who has resided with the person responsible for the child's welfare
12 or the alleged perpetrator. ~~The department or law enforcement agency may~~
13 ~~conduct~~

14 c. Conduct the interview at a school, child care facility, or any other place where
15 the alleged abused or neglected child or other child is found.

16 3. Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional
17 human service center shall disclose to the department or the department's
18 authorized agent, upon request, the records of a patient or client which are
19 relevant to an assessment of reported child abuse or neglect.

20 **SECTION 6. AMENDMENT.** Subsection 4 of section 50-25.1-11 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 4. Any person who is the subject of a report; provided, however, that the identity of
23 persons reporting or supplying information under this chapter is protected.