

SENATE BILL NO. 2130

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact subsection 7 of section 15.1-31-01, sections
2 25-03.2-01, 25-03.2-02, 25-03.2-03, 25-03.2-03.1, 25-03.2-04, 25-03.2-05, 25-03.2-06, and
3 25-03.2-07, subsection 4 of section 25-03.2-08, section 25-03.2-10, and subdivision a of
4 subsection 9 of section 43-12.1-04 of the North Dakota Century Code, relating to psychiatric
5 residential treatment facilities for children; to provide an effective date; and to declare an
6 emergency.

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

8 **SECTION 1. AMENDMENT.** Subsection 7 of section 15.1-31-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 7. A child placed for purposes other than education in a group or residential care
11 facility or in a psychiatric residential treatment center facility is not eligible for open
12 enrollment under this section.

13 **SECTION 2. AMENDMENT.** Section 25-03.2-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **25-03.2-01. Definitions.** In this chapter, unless the context otherwise requires:

16 1. "Child" or "children" means a person or persons under the age of twenty-one.

17 2. "Clinical supervision" means the oversight responsibility for individual treatment
18 plans and individual service delivery, provided by qualified mental health
19 professionals.

20 ~~2.~~ 3. "Department" means the department of human services.

21 ~~3.~~ 4. "Diagnostic assessment" means a written summary of the history, diagnosis, and
22 individual treatment needs of a mentally ill person using diagnostic, interview, and
23 other relevant assessment techniques provided by a mental health professional.

- 1 4. 5. "Individual treatment plan" means a written plan of intervention, treatment, and
2 services for a mentally ill person that is developed under the clinical supervision of
3 a mental health professional on the basis of a diagnostic assessment.
- 4 5. 6. "Mentally ill person" has the same meaning provided for in section 25-03.1-02.
- 5 6. 7. ~~"Qualified mental health professional" means a licensed physician who is a~~
6 ~~psychiatrist, a licensed clinical psychologist who is qualified for listing on the~~
7 ~~national register of health service providers in psychology, a licensed certified~~
8 ~~social worker who is a board-certified diplomate in clinical social work, or a nurse~~
9 ~~who holds advanced licensure in psychiatric nursing.~~ "Psychiatric residential
10 treatment facility for children" means a facility or a distinct part of a facility that
11 provides to children a total, twenty-four hour, therapeutic environment integrating
12 group living, educational services, and a clinical program based upon a
13 comprehensive, interdisciplinary clinical assessment, and an individualized
14 treatment plan that meets the needs of the child and family. The services are
15 available to children in need of and able to respond to active psychotherapeutic
16 intervention and who cannot be effectively treated in their own family, in another
17 home, or in a less restrictive setting. The facility must meet the requirements of a
18 psychiatric residential treatment facility as set out in title 42, Code of Federal
19 Regulations, part 483.352.
- 20 7. 8. ~~"Residential treatment" means a twenty four hour a day program under the clinical~~
21 ~~supervision of a mental health professional, in a community residential setting~~
22 ~~other than an acute care hospital, for the active treatment of mentally ill persons.~~
23 "Qualified mental health professional" means a licensed physician who is a
24 psychiatrist, a licensed clinical psychologist who is qualified for listing on the
25 national register of health service providers in psychology, a licensed certified
26 social worker who is a board-certified diplomate in clinical social work, or a nurse
27 who holds advanced licensure in psychiatric nursing.
- 28 8. 9. ~~"Residential treatment center for children" means a facility or a distinct part of a~~
29 ~~facility that provides to children and adolescents a total, twenty four hour,~~
30 ~~therapeutic environment integrating group living, educational services, and a~~
31 ~~clinical program based upon a comprehensive, interdisciplinary clinical~~

1 ~~assessment, and an individualized treatment plan that meets the needs of the child~~
2 ~~and family. The services are available to children in need of and able to respond to~~
3 ~~active psychotherapeutic intervention and who cannot be effectively treated in their~~
4 ~~own family, in another home, or in a less restrictive setting. "Residential treatment"~~
5 ~~means a twenty-four hour a day program under the clinical supervision of a mental~~
6 ~~health professional, in a community residential setting other than an acute care~~
7 ~~hospital, for the active treatment of mentally ill persons.~~

8 **SECTION 3. AMENDMENT.** Section 25-03.2-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **25-03.2-02. License required.** The operator of a publicly or privately operated
11 psychiatric residential treatment center facility for children shall meet the requirements for
12 licensure and shall secure a license from the department.

13 **SECTION 4. AMENDMENT.** Section 25-03.2-03 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **25-03.2-03. Requirements for license.** The department shall issue a license for the
16 operation of a psychiatric residential treatment center facility for children upon a showing that:

- 17 1. The premises to be used are in fit, safe, and sanitary condition and properly
18 equipped to provide good care and treatment;
- 19 2. The program director of the center facility holds, at a minimum, a master's degree
20 in social work, psychology, or in a related ~~behavioral science~~ field with at least two
21 years of professional experience in the treatment of children ~~and adolescents~~
22 suffering from mental illnesses or emotional disturbances. The executive director
23 of the center facility must have, at a minimum, a bachelor's degree in a behavioral
24 science or a bachelor's degree in any field and two years of experience in
25 administration;
- 26 3. The staff employed by the center facility is supervised by the program director and
27 qualified by training and experience to provide services to children ~~and~~
28 ~~adolescents~~ suffering from mental illnesses or emotional disturbances. The center
29 facility annually must provide training to staff which is relevant to the needs of the
30 client population;

- 1 4. The health, safety, and well-being of the ~~residents~~ children cared for and treated in
2 the ~~center~~ facility will be properly safeguarded;
- 3 5. There are sufficient treatment, educational, recreational and leisure, and physical
4 facilities and services available to the ~~residents~~ children in the ~~center~~ facility;
- 5 6. The ~~center~~ facility will provide for a medical and psychological examination of each
6 resident child within seventy-two hours of admission and thereafter as needed by
7 the ~~resident~~ child;
- 8 7. An interdisciplinary team consisting of at least one qualified mental health
9 professional will review each individual treatment plan at least monthly and update
10 or amend the plan to meet the needs of the ~~resident~~ child; ~~and~~
- 11 8. The facility develops postdischarge plans and coordinates facility services and
12 related community services with partial discharge plans with each child's family,
13 school, and community upon discharge to ensure continuity of care; and
- 14 9. The ~~center~~ facility is in compliance with requirements for psychiatric residential
15 treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and
16 title 42, Code of Federal Regulations, part 441, and with this chapter and with rules
17 adopted under this chapter.

18 **SECTION 5. AMENDMENT.** Section 25-03.2-03.1 of the North Dakota Century Code
19 is amended and reenacted as follows:

20 **25-03.2-03.1. ~~(Effective through July 31, 2007)~~ Moratorium on expansion of**
21 **psychiatric residential treatment center facility for children bed capacity.** Notwithstanding
22 sections 25-03.2-03 and 25-03.2-08, unless a needs assessment conducted by the department
23 indicates a need for the licensing of additional bed capacity, the department may not issue a
24 license under this chapter for any additional bed capacity for a psychiatric residential treatment
25 ~~center~~ facility for children above the state's gross number of beds licensed as of June 30, 2003.

26 **SECTION 6. AMENDMENT.** Section 25-03.2-04 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **25-03.2-04. Conviction not bar to licensure - Exceptions.** Conviction of an offense
29 by an owner or operator of a ~~center~~ facility does not disqualify the center from licensure unless
30 the department determines that the offense has a direct bearing upon a person's ability to serve
31 the public as an owner or operator of a psychiatric residential treatment ~~center~~ facility for

1 children, or that, following conviction of any offense, the person is not sufficiently rehabilitated
2 under section 12.1-33-02.1.

3 **SECTION 7. AMENDMENT.** Section 25-03.2-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **25-03.2-05. Content of license.** The license to operate a psychiatric residential
6 treatment ~~center~~ facility for children must specify:

- 7 1. The name of the licensee.
- 8 2. The premises to which the license is applicable.
- 9 3. The number of ~~residents~~ children who may be received in the premises at any one
10 time.
- 11 4. The date of expiration of the license.

12 **SECTION 8. AMENDMENT.** Section 25-03.2-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **25-03.2-06. Admission criteria.** A child may be admitted to a psychiatric residential
15 treatment ~~center~~ facility for children if, the child has been diagnosed by a psychiatrist or
16 psychologist as suffering from a mental illness or emotional disturbance and the child is in need
17 of and able to respond to active psychotherapeutic intervention and cannot be effectively
18 treated in the child's family, in another home, or in a less restrictive setting. The ~~center~~ facility
19 must take into account the age and diagnosis of the child in order to provide an environment
20 that is safe and therapeutic for all ~~residents~~ children.

21 **SECTION 9. AMENDMENT.** Section 25-03.2-07 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **25-03.2-07. Method of providing service.** A psychiatric residential treatment center
24 facility for children shall provide for the development of an individual treatment plan, based
25 upon a comprehensive interdisciplinary diagnostic assessment, which includes the role of the
26 family, identifies the goals and objectives of the ~~residential~~ therapeutic activities and treatment,
27 provides a schedule for accomplishing the therapeutic activities and treatment goals and
28 objectives, and identifies the individuals responsible for providing services, consistent with the
29 individual treatment plan, to ~~residents~~ children. Clinical supervision of the individual treatment
30 plan must be accomplished by full-time or part-time employment of or contracts with qualified
31 mental health professionals. Clinical supervision must be documented by the qualified mental

1 health professionals cosigning individual treatment plans and by entries in the ~~resident's~~ child's
2 record regarding supervisory activity.

3 **SECTION 10. AMENDMENT.** Subsection 4 of section 25-03.2-08 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 4. The owner, operator, or an employee of the ~~center~~ facility is or has been found
6 guilty of an offense determined by the department to have a direct bearing on the
7 person's ability to serve as an owner, operator, or employee, or the department
8 determines, following conviction of an offense, that the person is not sufficiently
9 rehabilitated under section 12.1-33-02.1.

10 **SECTION 11. AMENDMENT.** Section 25-03.2-10 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **25-03.2-10. Department may adopt rules.** The department may adopt rules for the
13 conduct of psychiatric residential treatment ~~centers~~ facilities for children.

14 **SECTION 12. AMENDMENT.** Subdivision a of subsection 9 of section 43-12.1-04 of
15 the North Dakota Century Code is amended and reenacted as follows:

16 a. Within psychiatric residential treatment ~~centers~~ facilities for children licensed
17 under chapter 25-03.2 and North Dakota Administrative Code chapter
18 75-03-17;

19 **SECTION 13. EFFECTIVE DATE.** This Act becomes effective on July 1, 2007.

20 **SECTION 14. EMERGENCY.** This Act is declared to be an emergency measure.