

HOUSE BILL NO. 1095

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 50-11.3-02, 50-12-02, 50-12-03, and
2 50-12-03.1 and subsection 1 of section 50-12-03.2 of the North Dakota Century Code, relating
3 to criminal history record investigations for foster care licensure or licensure as a child-placing
4 agency.

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

6 **SECTION 1. AMENDMENT.** Section 50-11.3-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-11.3-02. Criminal history record investigation - Effect of results.**

9 1. An individual may not be licensed or approved as a foster parent or treated as
10 having a home suitable for the adoption of any child other than the individual's
11 stepchild and a foster care facility that employs or houses an individual may not be
12 licensed or approved, if the individual is the subject of a criminal history record
13 investigation that reveals:

14 ~~1.~~ a. A felony conviction by a court of competent jurisdiction for criminal conduct
15 involving:

16 ~~a.~~ (1) Child abuse or neglect;

17 ~~b.~~ (2) Domestic violence, as that term is used in chapter 14-07.1;

18 ~~c.~~ (3) A crime in which a child was a victim, including the creation or
19 distribution of child pornography; or

20 ~~d.~~ (4) A crime involving violence, including rape, sexual assault, or murder,
21 but not including other physical assault or battery;

22 ~~2.~~ b. A felony conviction entered within the past five years by a court of competent
23 jurisdiction for criminal conduct involving:

24 ~~a.~~ (1) A crime involving violence not described in ~~subsection 1~~ subsection a;

1 employee of a child-placing agency who has direct contact with families, with children, or with
2 both. The department of human services shall consider any criminal history record information
3 available about the owner at the time a licensing decision is made and about an employee prior
4 to the owner or the employee having direct contact with families, with children, or with both.
5 Licenses must be granted for a period not exceeding two years. Licenses must be issued to
6 reputable and responsible applicants upon a showing that they, and their agents, are equipped
7 properly by training and experience to find and select suitable temporary or permanent homes
8 for children and to supervise the homes when children are placed in them, to the end that the
9 health, morality, and general well-being of children placed by them will be properly
10 safeguarded. The department of human services may not deny a license because of the
11 applicant's objection to performing, assisting, counseling, recommending, facilitating, referring,
12 or participating in a placement that violates the applicant's written religious or moral convictions
13 or policies.

14 **SECTION 4. AMENDMENT.** Section 50-12-03.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-12-03.1. Conviction not bar to licensure or employment - Exceptions.**

17 Conviction of an offense does not disqualify a person from licensure or employment under this
18 chapter unless the department of human services determines that the offense has a direct
19 bearing upon a person's ability to serve the public as the owner or ~~proprietor~~ employee of a
20 child-placing agency, or that, following the person's conviction of any offense, the person is not
21 sufficiently rehabilitated under section 12.1-33-02.1.

22 **SECTION 5. AMENDMENT.** Subsection 1 of section 50-12-03.2 of the North Dakota
23 Century Code is amended and reenacted as follows:

24 1. A child-placing agency shall include, in any adoptive home study report, the results
25 of a criminal history record investigation made under this section. If the results
26 reveal a conviction of a crime described in chapter 50-11.3 or determined by the
27 department to have a direct bearing upon the person's ability to provide a suitable
28 home for placement of any child, or the department determines, following
29 conviction of any other offense, the person is not sufficiently rehabilitated under
30 section 12.1-33-02.1, the home study report must include a determination that a
31 home provided by the prospective adoptive parent is not a suitable home for the

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- 1 placement of any child and a recommendation that the petition for adoption be
- 2 denied. A child-placing agency shall consider any criminal history record
- 3 information available when making a recommendation in a home study report.