Sixty-fourth
Legislative Assembly
of North Dakota

# HOUSE BILL NO. 1108

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

A BILL for an Act to amend and reenact sections 25-01-01.1, 25-01.2-01, 25-01.2-02, 25-01.2-03, 25-01.2-04, 25-01.2-08, 25-01.2-09, 25-01.2-11, 25-01.2-13, 25-01.2-14, 25-01.2-17, 25-04-01, 25-04-02, 25-04-03, 25-04-04, 25-04-05.1, 25-16-01, 25-16-02, 25-16-03, 25-16-03.1, 25-16-05, 25-16-06, 25-16-07, 25-16-08, 25-16-09, 25-16-12, 25-16-14, 25-16.1-01, 25-18-15, subsection 9 of section 43-12.1-04, sections 50-06-01.4, 50-06-06.3, 50-06-06.4, 50-10.1-01, and 57-38-01.16 of the North Dakota Century Code, relating to changing statutory references to "developmentally disabled persons" to "individual with a developmental disability" or "individuals with developmental disabilities".

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

**SECTION 1. AMENDMENT.** Section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-01-01.1. State council on developmental disabilities.**

There must be maintained in the department of human services a state council on developmental disabilities consisting of one representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:

1. Office of superintendent of public instruction.
2. North Dakota department of human services.
3. State department of health.
4. Life skills and transition center.
5. Job service North Dakota.

The council shall, at a minimum, include representation that conforms to federal law requirements regarding state councils on developmental disabilities. All members of the council must be appointed by the governor. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year. Meetings must be held at least

twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the council. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.

The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, and review and comment on all state plans in the state which relate to programs affecting ~~persons~~individuals with developmental disabilities. The council may take any action reasonably necessary to secure and administer any money made available to state councils on developmental disabilities through the Developmentally Disabled and Bill of Rights Act [Pub. L. 95-602; 92 Stat. 2955; 42 U.S.C. 6000 et seq.]. The council, if approved by the governor, shall appoint a full-time director who shall assist the council. The director must be classified under the state personnel merit system. The council shall also perform studies and surveys of the needs of ~~developmentally disabled persons~~individuals with developmental disabilities in North Dakota and shall facilitate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of developmental disabilities.

**SECTION 2. AMENDMENT.** Section 25-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Developmental disability" means a severe, chronic disability of ~~a person~~an individual which:
   a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
   b. Is manifested before the ~~person~~individual attains age twenty-two;
   c. Is likely to continue indefinitely;
   d. Results in substantial functional limitations in three or more of the following areas of major life activity:
      (1) Self-care;
      (2) Receptive and expressive language;
      (3) Learning;

(4) Mobility;

(5) Self-direction;

(6) Capacity for independent living; and

(7) Economic sufficiency; and

e. Reflects the ~~person's~~individual's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

2. "Institution or facility" means any school, hospital, residence center, group home, or any other facility operated by any public or private agency, organization, or institution, which provides services to ~~developmentally disabled persons~~an individual with a developmental disability.

3. "Least restrictive appropriate setting" means that setting which allows the ~~developmentally disabled person~~individual with a developmental disability to develop and realize the ~~person's~~individual's fullest potential and enhances the ~~person's~~individual's ability to cope with the ~~person's~~individual's environment without unnecessarily curtailing fundamental personal liberties.

4. "Service or services for ~~developmentally disabled persons~~an individual with a developmental disability" means services provided by any public or private agency, organization, or institution, directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of ~~a developmentally disabled person~~an individual with a developmental disability.

**SECTION 3. AMENDMENT.** Section 25-01.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-02. Appropriate treatment, services, and habilitation - Treatment in least restrictive appropriate setting.**

All ~~persons~~individuals with developmental disabilities have a right to appropriate treatment, services, and habilitation for those disabilities. Treatment, services, and habilitation for ~~developmentally disabled persons~~individuals with a developmental disability must be provided in the least restrictive appropriate setting.

**SECTION 4. AMENDMENT.** Section 25-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-03. Presumption of incompetence prohibited - Discrimination prohibited - Deprivation of constitutional, civil, or legal rights prohibited.**

~~No developmentally disabled person~~An individual with a developmental disability may not be presumed to be incompetent ~~or~~and may not be deprived of any constitutional, civil, or legal right solely because of admission to or residence at an institution or facility or solely because of receipt of services for ~~developmentally disabled persons~~individuals with a developmental disability. However, nothing in this section may be construed to limit or modify section 16.1-01-04. The constitutional, civil, or legal rights which may not be varied or modified under the provisions of this section include:

1. The right to vote at elections;
2. The free exercise of religion;
3. The right of reasonable opportunities to interact with members of the opposite sex; and
4. The right to confidential handling of personal and medical records.

**SECTION 5. AMENDMENT.** Section 25-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-04. Mail, telephone, and visitation rights - Application to residential institution or facility.**

1. Except as provided in this section, every ~~person~~individual who resides in a mental health or developmental disabilities institution or facility has the right of private, unimpeded, uncensored communication with persons of the resident's choice by mail, telephone, and visitation.

~~1.~~a. The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for private visitation is available.

~~2.~~b. The facility director may establish in writing reasonable times and places for use of telephones and for visits, provided that a resident's ability to contact an attorney may not be restricted and provided that any rules or restrictions must be posted in each residential facility. A copy of any rules or restrictions must be given to all residents over eighteen years of age and to the parents or guardian of all residents under eighteen years of age, upon admission.

2. This section applies only with respect to an institution or facility that provides residential care.

**SECTION 6. AMENDMENT.** Section 25-01.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-08. Medication - Chemical restraints.**

No ~~person~~individual receiving services at any institution or facility for ~~the developmentally disabled~~individuals with developmental disabilities may at any time be administered any drug or medication, or be chemically restrained or tranquilized in any manner, except upon the written authorization of a licensed physician when necessary and appropriate as an element of the service being received or as a treatment of any medical or physical condition in conformity with accepted standards for that treatment. The nature, amount of, and reasons for the administration of any drug or medication must be promptly recorded in the person's medical record.

**SECTION 7. AMENDMENT.** Section 25-01.2-09 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-09. Punishment - Isolation - Physical restraints - Psychosurgery - Sterilization - Shock treatment.**

No ~~person~~individual receiving services at any institution or facility for ~~the developmentally disabled~~individuals with developmental disabilities may at any time:

1. Be subjected to any corporal punishment.
2. Be isolated or secluded, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that ~~person~~individual or other ~~persons~~individuals.
3. Be physically restrained in any manner, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that ~~person~~individual or to other ~~persons~~individuals.
4. Be subjected to psychosurgery, sterilization, medical behavioral research, or pharmacological research, except in conformity with an order of a court of competent jurisdiction. Under no circumstances may ~~a person~~an individual receiving treatment be

subjected to hazardous or intrusive experimental research which is not directly related to the specific goals of that ~~person's~~individual's treatment program.

5. Be subjected to electroconvulsive therapy or shock treatment without that ~~person's~~individual's written and informed consent. If the recipient of services is a minor, the recipient's parent or guardian may provide informed consent for that treatment which the parent or guardian believes to be in the recipient's best interests.

**SECTION 8. AMENDMENT.** Section 25-01.2-11 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-11. Psychosurgery, sterilization, or research - Court order required - Hearing - Right to attorney at public expense - Application to residential institution or facility.**

A court of competent jurisdiction may issue the orders required for the procedures or treatments in subsection 4 of section 25-01.2-09 upon application of the party alleging the necessity of the procedure, the ~~person~~individual who is receiving or is entitled to receive the treatment, or the ~~person's~~individual's guardian, following a hearing on the application.

1. The ~~person~~individual receiving or entitled to treatment shall:
   a. Receive prior notice of the hearing;
   b. Have the right and the opportunity to present evidence; and
   c. Have the right to be confronted with and to cross-examine witnesses.
2. If the ~~developmentally disabled person~~individual with a developmental disability is indigent, counsel shall be provided at public expense not less than ten days before the hearing.
3. The burden of proof is on the party alleging the necessity of the procedure or treatment.
4. An order allowing the procedure or treatment may not be granted unless the party alleging the necessity of the procedure or treatment proves by clear and convincing evidence that the procedure is in the best interest of the recipient and that no less drastic measures are feasible.

This section applies only with respect to an institution or facility that provides residential care.

**SECTION 9. AMENDMENT.** Section 25-01.2-13 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-13. Education.**

Every ~~developmentally disabled~~ child with a developmental disability is entitled to a free and appropriate education in the least restrictive appropriate setting in accordance with chapter 15.1-32.

**SECTION 10. AMENDMENT.** Section 25-01.2-14 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-14. Individualized habilitation or education plan - Contents.**

Any institution, facility, agency, or organization that provides services for ~~developmentally disabled persons~~individuals with a developmental disability shall have a written, individualized habilitation plan developed and put into effect for each ~~person~~individual for whom that institution, facility, agency, or organization is primarily responsible for the delivery, or coordinating the delivery, of services. A school must have an individual educational plan for each of its ~~developmentally disabled~~ students with a developmental disability. A plan required under this section must:

1. Be developed and put into effect within thirty days following admission of the ~~person~~individual.
2. Be reviewed and updated from time to time, but no less than annually.
3. Include a statement of the long-term habilitation or education goals for the ~~person~~individual and the intermediate objectives relating to the attainment of those goals. The objectives must be stated specifically, in sequence, and in behavioral or other terms that provide measurable indices of progress.
4. State an objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved.
5. Describe the personnel necessary for the provision of the services described in the plan.
6. Specify the date of initiation and the anticipated duration of each service to be provided.
7. State whether the ~~developmentally disabled person~~individual with a developmental disability appears to need a guardian and determine the type of protection needed by the individual based on the individual's actual mental and adaptive limitations and other conditions which may warrant the appointment of a guardian. Any member of the

individual habilitation plan team may petition, or notify any interested person of the need to petition, for a finding of incapacity and appointment of a guardian.

**SECTION 11. AMENDMENT.** Section 25-01.2-17 of the North Dakota Century Code is amended and reenacted as follows:

**25-01.2-17. Enforcement of rights.**

Every ~~developmentally disabled person~~individual with a developmental disability is entitled to enforce any of the rights guaranteed by this chapter by civil action or any other remedy available by common law or statute. In any proceeding to enforce these rights, the court may, in its discretion, award reasonable attorney's fees and costs to a successful plaintiff. ~~A developmentally disabled person~~An individual with a developmental disability who is successful in an administrative proceeding may also be awarded reasonable attorney's fees and costs. Any award of attorney's fees and costs must be in addition to any actual or punitive damages to which the ~~person~~individual may be entitled.

**SECTION 12. AMENDMENT.** Section 25-04-01 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-01. Life skills and transition center - Name - Administration and control.**

A facility for ~~developmentally disabled persons~~individuals with developmental disabilities must be maintained at or near the city of Grafton in Walsh County. The facility must also be available for ~~a person~~an individual who is determined to be ~~a person~~an individual who may benefit from the facility's services. The facility must be known and designated as the life skills and transition center. The department of human services has administrative authority and control of the life skills and transition center.

**SECTION 13. AMENDMENT.** Section 25-04-02 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-02. Purpose of life skills and transition center.**

1. The life skills and transition center must be maintained for the relief, instruction, care, and custody of ~~persons who are developmentally disabled~~individuals with developmental disabilities or other ~~persons~~individuals who may benefit from the services offered at the center. For this purpose the department of human services may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.

2. The department may provide onsite and offsite additional services and effectuate its powers and duties to best serve ~~persons who are developmentally disabled~~individuals with developmental disabilities and other ~~persons~~individuals who may benefit from those activities. The services provided and the duties effectuated need not be accredited by the accreditation council on services for people with developmental disabilities or certified by the health care financing administration, or any other similar accrediting or certifying organization, if the service or duty is not provided to ~~persons who are developmentally disabled~~individuals with developmental disabilities or if such accrediting or certifying organization does not accredit or certify the service or duty.

**SECTION 14. AMENDMENT.** Section 25-04-03 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-03. Qualifications of superintendent.**

The superintendent of the life skills and transition center must be a skilled administrator with professional training and experience relating to the needs of ~~the developmentally disabled~~individuals with developmental disabilities. All employees must be appointed and removed by the superintendent or by the superintendent's designee. The salaries of all employees shall be fixed by the superintendent or the superintendent's designee within the limits of the legislative appropriations made for such purpose.

**SECTION 15. AMENDMENT.** Section 25-04-04 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-04. Who may receive benefits of life skills and transition center.**

Subject to this chapter and to any rules adopted by the department of human services, the benefits of the life skills and transition center may be received by:

1. ~~Persons who are developmentally disabled~~Individuals with developmental disabilities and other ~~persons~~individuals who may benefit from services provided at the life skills and transition center who, in the opinion of the superintendent of the life skills and transition center are of suitable age and capacity to receive instruction in the center and whose deficiencies prevent them from receiving proper training and instruction in the public schools;
2. ~~Persons who are developmentally disabled~~Individuals with developmental disabilities and other ~~persons~~individuals who may benefit from services provided at the life skills

and transition center who cannot be properly cared for in their homes or other available facilities; or

3. ~~Persons who are developmentally disabled~~Individuals with developmental disabilities and other ~~persons~~individuals who may benefit from onsite and offsite services provided or duties effectuated by the life skills and transition center.

Residents and nonresidents of this state may receive the benefits of the life skills and transition center. Priority, however, must be given to residents of this state and first priority must be given to ~~persons who are developmentally disabled~~individuals with developmental disabilities.

**SECTION 16. AMENDMENT.** Section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-05.1. Transfer of residents - Visiting privileges - Release and placement of patients.**

1. The superintendent shall have the right of temporary transfer of any resident of the life skills and transition center to an appropriate hospital or other specialized facility when in the superintendent's opinion the immediate health and safety of the resident requires the transfer. The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for ~~the developmentally disabled~~individuals with developmental disabilities to another when the best interest of the resident will be served thereby, or when the transfer is required in conformity with the policies of the department of human services; provided, however, that no transfer may be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.
2. Subject to reasonable rules for the orderly operation of the life skills and transition center or other state facility for ~~the developmentally disabled~~individuals with developmental disabilities, any parent or guardian of the person of a resident shall have the right of visiting and communicating with a child or ward and authorizing visits and communications with others.
3. The superintendent may authorize the temporary release of any resident to the custody of the resident's parent or guardian of the person, or to another person designated by the parent or such guardian. In the absence of such authorization, any parent or guardian of the person of any resident may formally request, in writing, the

resident's temporary release. The release must be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If a release is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent or such guardian in writing.

4. The superintendent may arrange for the suitable placement of a resident outside the life skills and transition center or other state facility and to release the resident on placement, provided placement has been preceded by a comprehensive evaluation. No such placement may be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

**SECTION 17. AMENDMENT.** Section 25-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-01. Definitions.**

In this chapter unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Treatment or care center" means any hospital, home, or other premises operated to provide relief, care, custody, treatment, day activity, work activity, or extended employment services to ~~developmentally disabled persons~~individuals with a developmental disability.

**SECTION 18. AMENDMENT.** Section 25-16-02 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-02. License required.**

The operator of a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability shall secure annually from the department a license as required by rules adopted under this chapter.

**SECTION 19. AMENDMENT.** Section 25-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-03. Requirements for license.**

The department shall issue a license for the operation of a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability upon a showing that:

1. The premises to be used are in fit, safe, sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the center and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, ~~morality,~~ safety, and well-being of the residents cared for and treated therein will be properly safeguarded;
4. There is sufficient entertainment, treatment, educational, and physical facilities and services available to the residents therein;
5. Appropriate arrangements are made for a medical and psychological examination of each resident; and
6. The provider is in compliance with rules adopted by the department under this chapter.

**SECTION 20. AMENDMENT.** Section 25-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-03.1. Conviction not bar to licensure - Exceptions.**

Conviction of an offense does not disqualify a person from licensure under this chapter unless the division determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

**SECTION 21. AMENDMENT.** Section 25-16-05 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-05. Content of license.**

The license to operate a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability issued under the provisions of this chapter must specify:

1. The name of the licensee.
2. The premises to which the license is applicable.
3. The number of residents who may be received in such premises at any one time.
4. The date of expiration of the license.

**SECTION 22. AMENDMENT.** Section 25-16-06 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-06. Department to prescribe forms - Rules.**

The department may prescribe forms for the registration and record of the persons residing in treatment or care centers for ~~developmentally disabled persons~~individuals with a developmental disability and may adopt reasonable rules for the conduct of such centers as are necessary to carry out the purposes of this chapter.

**SECTION 23. AMENDMENT.** Section 25-16-07 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-07. Records of treatment or care center confidential.**

Except as otherwise authorized by law, an agent of the department of human services or the superintendent of the life skills and transition center or the licensee or their agents or employees may not disclose the contents of the individual records of a treatment or care center for ~~developmentally disabled~~ individuals with a developmental disability, nor of the reports received from those records, except:

1. In a judicial proceeding when ordered by the presiding judge;
2. To a law enforcement official for a law enforcement purpose or any other legally constituted boards or agencies serving the interests of the residents for treatment, payment, or health care operations, to arrange, facilitate, or coordinate service to any such person;
3. To the parents or legal guardians of the resident;
4. To a physician to aid in the treatment of an individual within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative's child, or the relative's decision to have a child; or
5. To an individual who is within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to information about a resident needed to establish a family's genealogy.

**SECTION 24. AMENDMENT.** Section 25-16-08 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-08. Revocation of license.**

The department may revoke a license of a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability upon a proper showing that:

1. Any of the conditions set forth in section 25-16-03 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules of the department; or
4. The owner or operator of the center has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the department determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

**SECTION 25. AMENDMENT.** Section 25-16-09 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-09. Hearing on denial or revocation of license.**

Before any application for a license to conduct a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability is denied or before the revocation of such license by the department, written charges as to the reasons ~~therefor~~for the revocation or denial must be served upon the applicant or licensee, who ~~shall have the~~has a right to a hearing before the department, if a hearing is requested within ten days after service of written charges.

**SECTION 26. AMENDMENT.** Section 25-16-12 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-12. Efforts to obtain private and governmental grants.**

The department of human services and the duly licensed treatment or care centers for ~~developmentally disabled persons~~individuals with a developmental disability may exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of ~~developmentally disabled persons~~individuals with a developmental disability.

**SECTION 27. AMENDMENT.** Section 25-16-14 of the North Dakota Century Code is amended and reenacted as follows:

**25-16-14. Definitions - Group homes for ~~developmentally disabled persons~~individuals with developmental disabilities - Zoning.**

1. For the purposes of this section:

a. "Group home" means any community residential facility, foster home, family care facility, or other similar home for individuals with a developmental disability.

b. "~~Developmentally disabled person~~Individual with a developmental disability" means ~~a person~~an individual with a severe, chronic disability which:

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the ~~person~~individual attains age twenty-two;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(a) Self-care;

(b) Receptive and expressive language;

(c) Learning;

(d) Mobility;

(e) Self-direction;

(f) Capacity for independent living; and

(g) Economic sufficiency; and

(5) Reflects the ~~person's~~individual's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.

~~b. "Group home" means any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.~~

2. Notwithstanding the provisions in chapter 11-33, 40-47, or 58-03, or any other provisions authorizing any political subdivision to establish or enforce zoning regulations, a licensed group home serving six or fewer ~~developmentally disabled persons~~individuals with a developmental disability must be considered a permitted use in a single-family or equivalent least-density residential zone, and a licensed group home serving eight or fewer ~~developmentally disabled persons~~individuals with a developmental disability must be considered a permitted use in any area zoned for residential use of greater density than single-family use.

**SECTION 28. AMENDMENT.** Section 25-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**25-16.1-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Treatment or care center" means any hospital, home, or other premises, operated to provide relief, care, custody, treatment, day activity, work activity, or extended employment services to ~~developmentally disabled persons~~individuals with developmental disabilities.

**SECTION 29. AMENDMENT.** Section 25-18-15 of the North Dakota Century Code is amended and reenacted as follows:

**25-18-15. Payment for services to medically fragile children.**

The department may consider the unique level of care, the additional cost required to provide services to medically fragile clients under twenty-one years of age, and the actual and reasonable cost of providing services to ~~developmentally disabled~~ individuals with developmental disabilities when reimbursing an intermediate care facility for individuals with intellectual disabilities.

**SECTION 30. AMENDMENT.** Subsection 9 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. A person that provides medications, other than by the parenteral route:
   a. Within a correctional facility, in compliance with section 12-44.1-29;
   b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
   c. Within a treatment or care center for ~~developmentally disabled persons~~individuals with developmental disabilities licensed under chapter 25-16;
   d. Within a group home, a residential child care facility, or an adult foster care facility licensed under section 50-11-01 or North Dakota Administrative Code chapter 75-03-16;
   e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of human services;

f. Within a human service center licensed under chapter 50-06; or

g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.

**SECTION 31. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-01.4. Structure of the department.**

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

~~1.~~ a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.

~~2.~~ b. Administration of programs for ~~persons~~individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.

~~3.~~ c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult family care homes, committee on aging, and the fund matching program for city or county tax levies for senior citizen activities and services.

~~4.~~ d. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.

~~5.~~ e. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.

~~6.~~ f. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.

~~7.~~ g. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening, diagnosis and treatment, utilization control, and claims processing.

2. The executive director shall consult with and maintain a close working relationship with the state department of health; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for ~~developmentally disabled persons~~individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

**SECTION 32. AMENDMENT.** Section 50-06-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-06.3. Facility staff training.**

It is the intent of the legislative assembly that the department of human services design and implement a facility staff training system in cooperation with the board of higher education to assure adequate and appropriate staff development and training for the providers of

community-based care on behalf of ~~developmentally disabled persons~~individuals with developmental disabilities.

**SECTION 33. AMENDMENT.** Section 50-06-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-06.4. Comprehensive community residential program.**

It is the intent of the legislative assembly that the department of human services implement a comprehensive community residential program for ~~developmentally disabled~~ children with developmental disabilities, including the use of intermediate care facilities and other such foster home and group home resources as deemed appropriate.

**SECTION 34. AMENDMENT.** Section 50-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-10.1-01. Definitions.**

As used in this chapter:

1. "Administrative action" means any action or decision made by an owner, employee, or agent of a long-term care facility, or by a public agency, which affects the provision of services to a resident of a long-term care facility.
2. "Department" means the department of human services.
3. "Long-term care facility" means any skilled nursing facility, basic care facility, nursing home as defined in subsection 3 of section 43-34-01, assisted living facility, or swing-bed hospital approved to furnish long-term care services; provided, that a facility, as defined by subsection 2 of section 25-01.2-01, providing services to ~~developmentally disabled persons~~individuals with developmental disabilities is not a long-term care facility.
4. "Resident" means ~~a person~~an individual residing in and receiving personal care from a long-term care facility.

**SECTION 35. AMENDMENT.** Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.16. Income tax credit for employment of ~~developmentally disabled~~individuals with developmental disabilities or chronically mentally ill persons.**

A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 for a portion of the wages paid to ~~a developmentally~~

~~disabled~~an employee with a developmental disability or a chronically mentally ill employee. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each ~~developmentally disabled~~employee with a developmental disability or chronically mentally ill employee of the taxpayer. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.

The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.