

Introduced by

Senators Kreun, G. Lee, Poolman, Hogue

Representatives Beadle, O'Brien

1 A BILL for an Act to amend and reenact subsection 1 of section 50-11.1-04, section  
2 50-11.1-07.8, subsection 1 of section 50-11.1-17, and subsection 2 of section 50-25.1-11 of the  
3 North Dakota Century Code, relating to regulation of early childhood services and claims of  
4 child abuse and neglect.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 50-11.1-04 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8 1. An application for operation of an early childhood program must be made on forms  
9 provided, in the manner prescribed, by the department. The department or the  
10 department's authorized agent shall investigate the applicant's activities and proposed  
11 standards of care and shall make an inspection of all premises to be used by the early  
12 childhood program applying for a license. The applicant for a license and the staff  
13 members, and, if the application is for a program that will be located in a private  
14 residence, every individual living in that residence must be investigated in accordance  
15 with the rules adopted by the department to determine whether any of them has a  
16 criminal record or has had a finding of services required for child abuse or neglect filed  
17 against them. The department may use the findings of the investigation to determine  
18 licensure. Except as otherwise provided, the department shall grant a license for the  
19 operation of an early childhood program within thirty days of receipt of a completed  
20 application and all supporting documents by the department and upon a showing:
- 21 a. The premises to be used are in fit and sanitary condition, are properly equipped  
22 to provide for the health and safety for all children, and are maintained according  
23 to rules adopted by the department;

- 1           b. Staff members are qualified to fulfill the duties required of ~~them~~the staff members  
2           according to the provisions of this chapter and standards prescribed for ~~their~~staff  
3           member qualifications by the rules of the department;
- 4           c. The application and supporting documents do not include any fraudulent or  
5           untrue representations;
- 6           d. The owner, operator, or applicant has not had a previous license or  
7           self-declaration denied or revoked within the twelve months before the date of the  
8           current application;
- 9           e. The owner, operator, or applicant has not had three or more previous licenses or  
10          self-declarations denied or revoked. The most recent revocation or denial may  
11          not have occurred within the five years immediately preceding the application  
12          date;
- 13          f. The program paid its license fees and any penalties and sanctions assessed  
14          against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- 15          g. The family child care owner or operator and staff members have received training  
16          and are currently certified in infant and pediatric cardiopulmonary resuscitation  
17          ~~and the use of an automated external defibrillator~~ by the American heart  
18          association, American red cross, or other similar cardiopulmonary resuscitation  
19          ~~and automated external defibrillator~~ training programs that are approved by the  
20          department, and are currently certified in first aid by a program approved by the  
21          department; and
- 22          h. The group child care, preschool, school-age child care, or child care center, at all  
23          times during which early childhood services are provided, staff members have  
24          received training and are currently certified in infant and pediatric  
25          cardiopulmonary resuscitation ~~and the use of an automated external defibrillator~~  
26          by the American heart association, American red cross, or other similar  
27          cardiopulmonary resuscitation ~~and automated external defibrillator~~ training  
28          programs that are approved by the department, and currently certified in first aid  
29          by a program approved by the department.

30           **SECTION 2. AMENDMENT.** Section 50-11.1-07.8 of the North Dakota Century Code is  
31   amended and reenacted as follows:

1           **50-11.1-07.8. Suspension of license, self-declaration, or registration document -**  
2 **~~Investigation~~Assessment upon a report of child abuse or neglect - Notification to parent.**

- 3           1. The department may:
- 4           a. Suspend a license, self-declaration, or registration document at any time after the  
5           onset of a child abuse and neglect ~~investigation~~assessment alleging the owner or  
6           operator, the holder of a self-declaration, or the in-home provider ~~has committed~~;  
7           (1) Committed child abuse, including child sexual abuse, ~~or has neglected a~~  
8           ~~child and~~ law enforcement has been involved, ~~if and~~ continued operation is  
9           likely to jeopardize the health and safety of the children; or  
10           (2) Neglected a child, law enforcement has been involved, and continued  
11           operation is likely to jeopardize the health and safety of the children.
- 12           b. Suspend a license, self-declaration, or registration document upon a child abuse  
13           or neglect services required determination indicating ~~that~~ a child has been  
14           abused or neglected by the owner or operator, the holder of a self-declaration, or  
15           the in-home provider, if continued operation is likely to jeopardize the health and  
16           safety of the children present.
- 17           c. Prohibit the presence of an accused owner, operator, holder of a self-declaration,  
18           in-home provider, staff member, or adult or minor household member of the early  
19           childhood program, self-declaration, or in-home provider from the early childhood  
20           premises when children are in child care, upon a report of child abuse or neglect  
21           at the premises of the ~~licensed~~early childhood program, holder of the  
22           self-declaration, or registration, or involving a staff member or adult or minor  
23           household member if continued operation or the presence of the accused  
24           individual is likely to jeopardize the health and safety of the children present.
- 25           2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
- 26           a. Shall notify the parent of any child receiving early childhood services ~~when~~if that  
27           program's license, self-declaration, or registration document is suspended.
- 28           b. Shall notify the owner, operator, holder of a self-declaration, or in-home provider  
29           and shall notify the parent of any child receiving early childhood services ~~when~~if  
30           an owner, operator, holder of a self-declaration, in-home provider, ~~adult~~ staff  
31           member, or adult or minor household member of the program providing care of

1           the child is ~~under investigation under subsection 1~~ the subject of a child abuse  
2           and neglect assessment and the department determines:

3           (1) The reported child abuse or neglect places children in the early childhood  
4           program, self-declaration, or in-home provider at risk of abuse or neglect;  
5           and

6           (2) If the reported child abuse or neglect occurred outside the care, supervision,  
7           or guidance of children in an early childhood program, self-declaration, or  
8           in-home provider, there was an impact or is a potential impact on care,  
9           supervision, or guidance of the children in the early childhood program, self-  
10          declaration, or in-home provider.

11          c. Shall notify the owner, operator, holder of a self-declaration, or in-home provider  
12          and shall notify the parent of any child receiving early childhood services that a-  
13          an owner, operator, holder of a self-declaration, in-home provider, staff member,  
14          or adult or minor household member is under investigation ~~prohibited from the~~  
15          premises of the early childhood program, self-declaration, or in-home provider  
16          under subsection 1 if the staff member or household member is a minor.

17          3. Upon the conclusion and disposition of ~~the investigation~~ a child abuse and neglect  
18          assessment for which a determination services are required is found or for which the  
19          department issued a notice under subsection 2, the department shall notify ~~provide~~  
20          notification of the disposition to the parent of each child who at the time of the  
21          determination is receiving early childhood services of the disposition.

22          4. Notwithstanding any provision to the contrary, any action taken under this section may  
23          preclude an individual's ability to operate pending an appeal.

24          5. Notwithstanding subsections 2 and 3:

25          a. The department may reconsider a suspension or prohibition.

26          b. If law enforcement requests a delay in notification, the department may delay  
27          notifying the owner, operator, holder of a self-declaration, or in-home provider  
28          and delay notifying the parent of any child receiving early childhood services. To  
29          be valid, a law enforcement request for a notification delay must be provided to  
30          the department in writing within forty-eight hours of law enforcement receiving

1                   notification of an alleged criminal matter. A notification delay may last up to sixty  
2                   days and, upon request of law enforcement, may be renewed.

3                   **SECTION 3. AMENDMENT.** Subsection 1 of section 50-11.1-17 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5                   1. Applications for self-declarations must be made on forms provided and in the manner  
6                   prescribed by the department. The department or the department's authorized agent  
7                   shall investigate the applicant and every individual living in the private residence and  
8                   shall conduct a background check. The department or the department's authorized  
9                   agent shall conduct the investigation in accordance with the rules adopted by the  
10                  department and shall determine whether any of them has a criminal record or has had  
11                  a finding of services required for child abuse or neglect filed against them. Except as  
12                  otherwise provided, the department shall approve a self-declaration within thirty days  
13                  of receipt of a completed application and all supporting documents by the department  
14                  and upon the applicant's declaration:

15                  a. The premises to be used are in fit and sanitary condition to provide for the health  
16                  and safety of all children and are maintained according to the standards  
17                  prescribed by the rules of the department;

18                  b. The applicant is able to provide for the health and safety of each child receiving  
19                  early childhood services from the applicant according to this chapter and  
20                  standards prescribed by the department as set forth in ~~its~~the rules of the  
21                  department;

22                  c. The applicant has not had a previous license or self-declaration denied or  
23                  revoked within the twelve months before the date of the current application;

24                  d. The applicant has not had three or more previous licenses or self-declarations  
25                  denied or revoked. The most recent revocation or denial may not have occurred  
26                  within five years of the application date;

27                  e. The applicant has paid the required application fees;

28                  f. The applicant has paid any penalties and sanctions assessed against the  
29                  program required by sections 50-11.1-03 and 50-11.1-07.4;

30                  g. The applicant is currently certified in infant and pediatric cardiopulmonary  
31                  resuscitation and ~~the use of an automated external defibrillator~~ by the American

1 heart association, the American red cross, or a similar cardiopulmonary  
2 resuscitation and ~~automated external defibrillator~~ training program approved by  
3 the department;

4 h. The emergency designee used by the applicant, if any, is currently certified in  
5 infant and pediatric cardiopulmonary resuscitation and ~~the use of an automated~~  
6 ~~external defibrillator~~ by the American heart association, the American red cross,  
7 or a similar cardiopulmonary resuscitation and ~~automated external defibrillator~~  
8 training program approved by the department;

9 i. The applicant is currently certified in first aid through a training program approved  
10 by the department; and

11 j. The application and supporting documents do not include any fraudulent or  
12 untrue representations.

13 **SECTION 4. AMENDMENT.** Subsection 2 of section 50-25.1-11 of the North Dakota  
14 Century Code is amended and reenacted as follows:

15 2. ~~The~~In accordance with subsection 3 of section 50-11.1-07.8, the department shall  
16 notify the owner, operator, holder of a self-declaration, or in-home provider and shall  
17 notify the parent or legally appointed guardian of a child, who at the time of notification  
18 is receiving early childhood services under chapter 50-11.1<sub>2</sub> of the name of the subject  
19 and provide a summary of the facts and the results of an assessment conducted under  
20 this chapter if the report made under this chapter involves the owner, operator, holder  
21 of a self-declaration, or in-home provider; or involves an adult or minor staff member,  
22 or adult or minor household member of the early childhood program, ~~the holder of a~~  
23 ~~self-declaration or a household member of the holder of a self-declaration, or the~~  
24 ~~in-home provider or a household member of the in-home provider, who is providing~~  
25 care to the child.