

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2083

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 50-25.1-02, 50-25.1-03, 50-25.1-03.1,
2 50-25.1-04, 50-25.1-04.1, 50-25.1-04.2, 50-25.1-04.3, 50-25.1-05, 50-25.1-05.1, 50-25.1-05.2,
3 50-25.1-05.3, 50-25.1-05.4, 50-25.1-05.5, 50-25.1-05.6, 50-25.1-06, 50-25.1-07, 50-25.1-09.1,
4 50-25.1-11, 50-25.1-13, 50-25.1-14, 50-25.1-15, 50-25.1-16, 50-25.1-18, 50-25.1-19,
5 50-25.1-20, 50-25.1-21, 50-25.1-22, and 50-25.1-23 of the North Dakota Century Code, relating
6 to child abuse and neglect; and to provide a penalty.

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

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

10 **50-25.1-02. Definitions.**

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

- 12 1. "A person responsible for the child's welfare" means an individual who has
13 responsibility for the care or supervision of a child and who is the child's parent, an
14 adult family member of the child, any member of the child's household, the child's
15 guardian, or the child's foster parent; or an employee of, or any person providing care
16 for the child in, a ~~public or private school or~~ child care setting. For the purpose of
17 institutional child abuse or neglect, "A person responsible for the child's welfare"
18 means an institution that has responsibility for the care or supervision of a child.
- 19 2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol use disorder
20 as defined in the current edition of the "Diagnostic and Statistical Manual of Mental
21 Disorders" published by the American psychiatric association or a maladaptive use of
22 alcohol with negative medical, sociological, occupational, or familial effects.
- 23 3. "Abused child" means an individual under the age of eighteen years who is suffering
24 from abuse as defined in section 14-09-22 caused by a person responsible for the

1 child's welfare, and ~~"includes a sexually abused child"~~ means ~~an individual under the~~
2 ~~age of eighteen years who is subjected by a person responsible for the child's welfare,~~
3 ~~or by any individual, including a juvenile, who acts~~ who is suffering from or was
4 subjected to any act in violation of sections 12.1-20-01 through 12.1-20-07, sections
5 12.1-20-11 through 12.1-20-12.3, or chapter 12.1-27.2, by any individual, including a
6 juvenile.

- 7 4. "Alternative response assessment" means a child protection response involving
8 substance exposed newborns which is designed to:
- 9 a. Provide referral services to and monitor support services for a person responsible
10 for the child's welfare and the substance exposed newborn; and
 - 11 b. Develop a plan of safe care for the substance exposed newborn.

- 12 5. "Authorized agent" means the human service zone, unless another entity is
13 designated by the department.

- 14 6. "Child fatality review panel" means a multidisciplinary team consisting of a
15 representative of the department and, if possible, a forensic pathologist, a physician, a
16 representative of the state department of health injury prevention, a representative of
17 the attorney general, a representative of the superintendent of public instruction, a
18 representative of the department of corrections and rehabilitation, a peace officer
19 licensed in the state, a mental health professional, a representative of emergency
20 medical services, a medical services representative from a federally recognized Indian
21 tribe in this state, one or more representatives of the lay community, and a designated
22 tribal representative, as an ad hoc member, acting for each federally recognized Indian
23 tribe in this state. A team member, at the time of selection and while serving on the
24 panel, must be a staff member of the public or private agency the member represents
25 or shall serve without remuneration. The child fatality review panel may not be
26 composed of fewer than three individuals.

- 27 7. "Child protection assessment" means a factfinding process designed to provide
28 information that enables a determination to be made that services are required to
29 provide for the protection and treatment of whether a child meets the definition of an
30 abused or neglected child and an evidence-based screening tool, including instances

1 that may not identify a specific person responsible for the child's welfare which is
2 responsible for the abuse or neglect.

3 ~~7-8.~~ "Children's advocacy center" means a full or associate member of the national
4 children's alliance which assists in the coordination of the investigation in response to
5 allegations of child abuse by providing a dedicated child-friendly location at which to
6 conduct forensic interviews, forensic medical examinations, and other appropriate
7 services and which promotes a comprehensive multidisciplinary team response to
8 allegations of child abuse. The team response may include forensic interviews,
9 forensic medical examinations, mental health and related support services, advocacy,
10 and case review.

11 ~~8-9.~~ "Citizen review committee" means a committee appointed by the department to review
12 the department's provision of child welfare services.

13 ~~9-10.~~ "Confirmed" means that upon completion of a child protection assessment, the
14 department determines, based upon a preponderance of the evidence, that a child
15 meets the definition of an abused or neglected child, and the department confirms the
16 identity of a specific person responsible for the child's welfare which is responsible for
17 the abuse or neglect.

18 ~~11.~~ "Confirmed with unknown subject" means that upon completion of a child protection
19 assessment, the department determines, based upon a preponderance of the
20 evidence, that a child meets the definition of an abused or neglected child, but the
21 evidence does not confirm the identity of a specific person responsible for the child's
22 welfare which is responsible for the abuse or neglect.

23 ~~12.~~ "Department" means the department of human services ~~or its designee.~~

24 ~~10-13.~~ "Family services assessment" means a child protection services response to reports of
25 suspected child abuse or neglect in which the child is determined to be at low risk and
26 safety concerns for the child are not evident according to guidelines developed by the
27 department ~~and an evidence-based screening tool.~~

28 ~~11-14.~~ "Impending danger" means a foreseeable state of danger in which a behavior, attitude,
29 motive, emotion, or situation can be reasonably anticipated to have severe effects on
30 a child according to criteria developed by the department.

1 15. "Indicated" means that upon completion of an assessment of a report of institutional
2 child abuse or neglect, the department determines based upon preponderance of the
3 evidence, that a child meets the definition of an abused or neglected child.

4 16. "Institutional child abuse or neglect" means situations of known or suspected child
5 abuse or neglect when the institution responsible for the child's welfare is a public or
6 private school, a residential child-care facility, a treatment or care center for individuals
7 with intellectual disabilities, a public or private residential educational facility, a
8 maternity home, or any residential facility owned or managed by the state or a political
9 subdivision of the state or setting either licensed, certified, or approved by the
10 department, or a residential facility or setting that receives funding from the
11 department. For purposes of this subsection, residential facilities and settings
12 excludes correctional, medical, home and community-based residential rehabilitation,
13 and educational boarding care settings.

14 ~~12.~~ ~~"Local child protection team" means a multidisciplinary team consisting of the~~
15 ~~designee of the human service zone director who shall serve as presiding officer,~~
16 ~~together with such other representatives as that director might select for the team. All~~
17 ~~team members, at the time of their selection and thereafter, must be staff members of~~
18 ~~the public or private agencies they represent or shall serve without remuneration. An~~
19 ~~attorney member of the child protection team may not be appointed to represent the~~
20 ~~child or the parents at any subsequent court proceeding nor may the child protection~~
21 ~~team be composed of fewer than three members. The department may coordinate the~~
22 ~~organization of local child protection teams on a human service zone basis.~~

23 ~~13.~~17. "Near death" means an act that, as certified by a physician, places a child in serious or
24 critical condition.

25 ~~14.~~18. "Neglected child" means a child who, due to the action or inaction of a person
26 responsible for the child's welfare:

27 a. Is without proper care or control, subsistence, education as required by law, or
28 other care or control necessary for the child's physical, mental, or emotional
29 health, or morals, and is not due primarily to the lack of financial means of a
30 person responsible for the child's welfare;

31 b. Has been placed for care or adoption in violation of law;

- 1 c. Has been abandoned;
- 2 d. Is without proper care, control, or education as required by law, or other care and
3 control necessary for the child's well-being because of the physical, mental,
4 emotional, or other illness or disability of a person responsible for the child's
5 welfare, and that such lack of care is not due to a willful act of commission or act
6 of omission, and care is requested by a person responsible for the child's welfare;
- 7 e. Is in need of treatment and a person responsible for the child's welfare has
8 refused to participate in treatment as ordered by the juvenile court;
- 9 f. Was subject to prenatal exposure to chronic or severe use of alcohol or any
10 controlled substance as defined in ~~chapter 19-03.1~~section 19-03.1-01 in a
11 manner not lawfully prescribed by a practitioner;
- 12 g. Is present in an environment subjecting the child to exposure of a controlled
13 substance, chemical substance, or drug paraphernalia as prohibited by section
14 19-03.1-22.2, except as used in this subsection, controlled substance includes
15 any amount of marijuana; or
- 16 h. Is a victim of human trafficking as defined in title 12.1.
- 17 ~~15-19.~~ "Prenatal exposure to a controlled substance" means use of a controlled substance as
18 defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during
19 pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a
20 toxicology test performed on the mother at delivery or the child at birth, or medical
21 effects or developmental delays during the child's first year of life that medically
22 indicate prenatal exposure to a controlled substance.
- 23 ~~16-20.~~ "Protective services" includes services performed after an assessment of a report of
24 child abuse or neglect has been conducted, such as social assessment, service
25 planning, implementation of service plans, treatment services, referral services,
26 coordination with referral sources, progress assessment, monitoring service delivery,
27 and direct services.
- 28 ~~17-21.~~ "State child protection team" means a multidisciplinary team consisting of ~~the~~
29 ~~designee~~a representative of the department and, where possible, ~~of a physician, a~~
30 ~~representative of a child placing agency~~, a representative of the state department of
31 health, a representative of the attorney general, a representative of law enforcement.

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

12 ~~18-22.~~ "Substance exposed newborn" means an infant younger than twenty-eight days of age
13 at the time of the initial report of child abuse or neglect and who is identified as being
14 affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum
15 disorder.

16 23. "Unable to determine" means insufficient evidence is available to enable a
17 determination whether a child meets the definition of an abused or neglected child.

18 24. "Unconfirmed" means that upon completion of a child protection assessment, the
19 department has determined, based upon a preponderance of the evidence, that a
20 child does not meet the definition of an abused or neglected child.

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

23 **50-25.1-03. Persons required and permitted to report - To whom reported.**

- 24 1. Any dentist; optometrist; dental hygienist; medical examiner or coroner; tier 1 mental
25 health professional, tier 2 mental health professional, tier 3 mental health professional,
26 or tier 4 mental health professional as defined under section 25-01-01; or any other
27 medical or mental health professional, religious practitioner of the healing arts,
28 schoolteacher or administrator, school counselor, child care worker, foster parent,
29 police or law enforcement officer, juvenile court personnel, probation officer, division of
30 juvenile services employee, licensed social worker, family service specialist, child care
31 licenser, or member of the clergy having knowledge of or reasonable cause to suspect

1 a child is abused or neglected, or has died as a result of abuse or neglect, shall report
2 the circumstances to the department or authorized agent if the knowledge or suspicion
3 is derived from information received by that individual in that individual's official or
4 professional capacity. A member of the clergy, however, is not required to report such
5 circumstances if the knowledge or suspicion is derived from information received in
6 the capacity of spiritual adviser.

7 2. Any person having reasonable cause to suspect a child is abused or neglected, or has
8 died as a result of abuse or neglect, may report such circumstances to the department
9 or authorized agent.

10 3. A person having knowledge of or reasonable cause to suspect a child is abused or
11 neglected, based on images of sexual conduct by a child discovered on a workplace
12 computer, shall report the circumstances to the department or authorized agent.

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

15 **50-25.1-03.1. Photographs - X-rays - Medical tests.**

16 Any ~~person~~individual or official required to report under this chapter may cause to be taken
17 color photographs of the areas of trauma visible on a child who the ~~person~~individual or official
18 has knowledge or reasonable cause to suspect is an abused or neglected child and, if indicated
19 by medical consultation, cause to be performed imaging studies, laboratory tests, colposcopies,
20 and other medical tests of the child without the consent of the child's parents or guardian. All
21 photographs and other visual images taken pursuant to this section must be taken by law
22 enforcement officials, physicians, or medical facility professionals upon the request of any
23 ~~person~~individual or official required to report under this chapter. Photographs and visual images,
24 or copies of them, must be sent to the department or ~~the department's designee~~authorized
25 agent at the time the initial report of child abuse or neglect is made or as soon thereafter as
26 possible.

27 **SECTION 4. AMENDMENT.** Section 50-25.1-04 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **50-25.1-04. Method of reporting.**

30 1. All persons mandated or permitted to report cases of known or suspected child abuse
31 or neglect shall immediately shall cause oral or written reports to be made to the

1 department or the department's designee authorized agent. Oral reports must be
2 followed by written reports within forty-eight hours if so requested by the department or
3 the department's designee authorized agent. A requested written report must include
4 information specifically sought by the department or authorized agent if the reporter
5 possesses or has reasonable access to that information. Reports involving known or
6 suspected institutional child abuse or neglect must be made and received in the same
7 manner as all other reports made under this chapter.

8 2. The chief administrator of an entity employing more than twenty-five individuals who
9 are required to report suspected child abuse or neglect under this chapter may
10 designate an agent within the entity to file reports of suspected child abuse or neglect
11 on behalf of the staff members and volunteers of the entity. Under no circumstances
12 may a designated agent to whom such report has been made impose conditions,
13 including prior approval or prior notification, upon a staff member or volunteer
14 reporting suspected child abuse or neglect under this chapter or exercise any control,
15 restraint, or modification, or make any changes to the information provided by the staff
16 member or volunteer. A report filed by the designated agent must include the first and
17 last name, title, and contact information for every staff member or volunteer of the
18 entity who is believed to have direct knowledge of the facts surrounding the report. A
19 single report from the designated agent under this subsection is adequate to meet the
20 reporting requirement on behalf of staff members and volunteers of the entity listed
21 with the required information.

22 3. If a staff member or volunteer makes a report of suspected child abuse and neglect to
23 a designated agent of an entity as authorized in subsection 2, and the designated
24 agent files a report on behalf of the staff member or volunteer, the staff member or
25 volunteer will be considered to be fully compliant with the reporting requirements in
26 this chapter. However, this section does not preclude the staff member or volunteer
27 from also reporting the suspected child abuse and neglect directly to the department
28 or authorized agent. A staff member or volunteer reporting suspected child abuse or
29 neglect under this subsection who has knowledge the designated agent has failed to
30 report on behalf of the staff member or volunteer immediately shall make a report
31 directly to the department or authorized agent.

1 **SECTION 5. AMENDMENT.** Section 50-25.1-04.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-25.1-04.1. State child protection team - How created - Duties.**

- 4 1. The department shall name the members of the state child protection team. The
5 members ~~must be appointed for three-year staggered terms.~~ The member who
6 represents the department ~~shall serve as presiding officer and is responsible for the~~
7 ~~transmittal of all team reports made pursuant to this chapter. The presiding~~
8 ~~officer~~department shall set meetings for the purposes of fulfilling the duties set forth in
9 sections 50-25.1-02 and 50-25.1-04.
- 10 2. Under procedures adopted by the team, ~~it~~the team may meet at any time, confer with
11 any individuals, groups, and agencies, and may issue reports or recommendations on
12 any aspect of child abuse, neglect, or death resulting from abuse or neglect ~~it~~the team
13 deems appropriate. All reports or recommendations issued are subject to section
14 50-25.1-11, except that the team shall make available information reflecting the
15 disposition of reports of institutional child abuse, neglect, or death resulting from abuse
16 or neglect, when the identity of persons reporting, and of the children and parents of
17 children involved, is protected.
- 18 3. In every case of alleged institutional child abuse or neglect, the state child protection
19 team shall make a determination ~~that~~whether child abuse or neglect is ~~or is not~~
20 indicated. Upon a determination that institutional child abuse or neglect is indicated,
21 the state child protection team promptly shall make a written report of the
22 determination. When ~~the subject of the~~a report ~~is a state-operated institution~~includes
23 an allegation or report of institutional child abuse and neglect as defined in section
24 50-25.1-02, the state child protection team promptly shall notify the ~~governor~~executive
25 director of the department of the determination. Notwithstanding section 50-25.1-11,
26 the department shall notify the superintendent of public instruction, the school district
27 administrator, and the president or chairman of the school board or a private school's
28 governing body or entity if the subject of the report is a public or private school.
- 29 4. If a determination that institutional child abuse or neglect is indicated relative to a
30 residential facility or setting either licensed, certified, or approved by the department or
31 a residential facility or setting that receives funding from the department, that facility or

1 setting shall engage in an improvement plan approved by the department. Failure to
2 complete the approved improvement plan must result in notification to the residential
3 facility or setting's board of directors and to any entity that accredits the facility or
4 setting. Notification must include the written report of the state child protection team,
5 the approved improvement plan, and areas of deficiency that resulted in the
6 notification.

7 **SECTION 6. AMENDMENT.** Section 50-25.1-04.2 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-25.1-04.2. Child fatality review panel.**

10 ~~The state child protection team shall serve as a~~ child fatality review panel is a
11 multidisciplinary panel and incorporates representatives of agencies that are directly or
12 indirectly involved in responding to the death of a child. The department shall ~~appoint a peace-~~
13 ~~officer licensed in the state, a mental health professional, and~~ may designate any other person
14 as appropriate to assist the panel in the performance of ~~its~~ the panel's duties. The department, in
15 coordination with the state department of health, shall adopt rules for the operation of the panel.
16 Panel members are not entitled to compensation or reimbursement of expenses for service on
17 the panel. ~~The representative of the department shall serve as presiding officer and is~~
18 responsible for gathering records and preparing reports to review. The presiding officer shall set
19 meetings for the purpose of fulfilling the duties set forth in sections 50-25.1-04.3 and
20 50-25.1-04.5.

21 **SECTION 7. AMENDMENT.** Section 50-25.1-04.3 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **50-25.1-04.3. Child fatality review panel - Duties.**

24 The child fatality review panel shall meet at least ~~semiannually~~ quarterly to review the
25 deaths and near deaths of all minors which occurred in the state during the preceding ~~six~~ twelve
26 months and to identify trends or patterns in the deaths and near deaths of minors. The panel
27 may review near deaths alleged to have resulted only from child abuse and neglect. The panel
28 shall promote:

- 29 1. Interagency communication for the management of child death cases and for the
30 management of future nonfatal cases.
- 31 2. Effective criminal, civil, and social intervention for families with fatalities.

- 1 3. Intervention and counseling of surviving and at-risk siblings, and offer the same.
- 2 4. Interagency use of cases to audit the total health and social service systems and to
- 3 minimize misclassification of cause of death.
- 4 5. Evaluation of the impact of specific risk factors including substance abuse, domestic
- 5 violence, and prior child abuse.
- 6 6. Interagency services to high-risk families.
- 7 7. Data collection for surveillance of deaths and the study of categories of causes of
- 8 death.
- 9 8. The use of media to educate the public about child abuse prevention.
- 10 9. Intercounty, interhuman service zones, and interstate communications regarding child
- 11 death.
- 12 10. ~~Use of local child protection team members as local child fatality review panelists.~~
- 13 11. Information that apprises a parent or guardian of the parent's or guardian's rights and
- 14 the procedures taken after the death of a child.

15 **SECTION 8. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **50-25.1-05. Child protection assessment - Alternative response assessment - Family**
18 **services assessment.**

- 19 1. The department or authorized agent, in accordance with rules adopted by the
- 20 department, immediately shall initiate a child protection assessment, alternative
- 21 response assessment, or family services assessment or cause an assessment, of any
- 22 report of child abuse or neglect including, when appropriate, the child protection
- 23 assessment, alternative response assessment, or family services assessment of the
- 24 home or the residence of the child, any school or child care facility attended by the
- 25 child, and the circumstances surrounding the report of abuse or neglect.
- 26 2. According to guidelines developed by the department, the department or authorized
- 27 agent may initiate an alternative response assessment or family services assessment
- 28 if the department or authorized agent determines initiation is appropriate.
- 29 3. If the report alleges a violation of a criminal statute involving sexual or physical abuse,
- 30 the department or authorized agent shall initiate a child protection assessment by
- 31 contacting the law enforcement agency having jurisdiction over the alleged criminal

1 violation. The department or authorized agent and an appropriate law enforcement
2 agency shall coordinate the planning and execution of the child protection assessment
3 and law enforcement investigation efforts to avoid a duplication of factfinding efforts
4 and multiple interviews. If the law enforcement agency declines to investigate, the
5 department or authorized agent shall continue the child protection assessment to a
6 determination.

- 7 4. The department, the authorized agent, or the law enforcement agency may:
- 8 a. Refer the case to a children's advocacy center for a forensic interview, forensic
9 medical examination, and other services.
- 10 b. Interview, without the consent of a person responsible for the child's welfare, the
11 alleged abused or neglected child and any other child who currently resides or
12 who has resided with the person responsible for the child's welfare or the alleged
13 perpetrator.
- 14 c. Conduct the interview at a school, child care facility, or any other place where the
15 alleged abused or neglected child or other child is found.
- 16 5. Except as prohibited under title 42, Code of Federal Regulations, part 2, a medical,
17 dental, or mental health professional, hospital, medical or mental health facility, or
18 health care clinic shall disclose to the department or the ~~department's~~ authorized
19 agent, upon request, the records of a patient or client which are relevant to a child
20 protection assessment of reported child abuse or neglect or to a ~~services-~~
21 ~~required~~confirmed decision. The department, or the ~~department's~~ authorized agent,
22 shall limit the request for records to the minimum amount of records necessary to
23 enable a determination to be made or to support a determination of whether ~~services-~~
24 ~~are required~~child abuse or neglect is confirmed, confirmed with unknown subject, or
25 unable to determine to provide for the protection and treatment of an abused or
26 neglected child.
- 27 6. The department shall adopt guidelines for case referrals to a children's advocacy
28 center. When cases are referred to a children's advocacy center, all interviews of the
29 alleged abused or neglected child conducted at the children's advocacy center under
30 this section ~~shall~~must be audio-recorded or video-recorded.

- 1 7. The department or authorized agent shall complete an evidence-based screening tool
2 during a child protection assessment or a family services assessment.
- 3 8. The department or authorized agent may terminate in process a child protection
4 assessment upon a determination there is no credible evidence supporting the
5 reported abuse or neglect occurred.
- 6 9. If a report alleges institutional child abuse or neglect involving a public or private
7 school, the department or the department's authorized agent shall conduct a child
8 protection assessment. If practical, the department or the department's authorized
9 agent shall provide notice of the onset of a child protection assessment to the public or
10 private school. A public or private school may complete an investigation into any
11 conduct reported or alleged to constitute institutional child abuse or neglect at the
12 school's institution concurrently with a child protection assessment. If a public or
13 private school conducts an investigation concurrently with a child protection
14 assessment, the department or the department's authorized agent and the public or
15 private school shall coordinate the planning and execution of the child protection
16 assessment and public or private school investigation efforts to avoid a duplication of
17 fact finding efforts and multiple interviews if practical.

18 **SECTION 9. AMENDMENT.** Section 50-25.1-05.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-25.1-05.1. Services ~~required~~Child abuse or neglect assessment decision - How**
21 **determined.**

22 Upon completion of the child protection assessment of the initial report of child abuse or
23 neglect, a decision must be made whether ~~services are required to provide for the protection-~~
24 ~~and treatment of an abused or neglected~~confirmed, confirmed with unknown subject,
25 unconfirmed, or unable to determine abuse or neglect of a child.

- 26 1. This determination is the responsibility of the department.
- 27 2. A decision ~~that services are required of~~confirmed may not be made if the suspected
28 child abuse or neglect arises solely out of conduct involving the ~~legitimate~~lawful
29 practice of religious beliefs by a parent or guardian. This exception does not preclude
30 a court from ordering that medical services be provided to the child if the child's life or
31 safety requires such an order or the child is subject to harm or threatened harm.

1 **SECTION 10. AMENDMENT.** Section 50-25.1-05.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-25.1-05.2. Report to the court - Entry of report in the child abuse information**
4 **index.**

5 1. Upon a ~~decision~~confirmation that ~~services are required~~a child meets the definition of
6 an abused or neglected child, the department promptly shall make a written report of
7 the decision to the juvenile court having jurisdiction in the matter.

8 2. The department promptly shall file a report of a decision that ~~services are required~~a
9 child meets the definition of an abused or neglected child under this section in the
10 child abuse information index.

11 **SECTION 11. AMENDMENT.** Section 50-25.1-05.3 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **50-25.1-05.3. Disposition of reports implicating a person not responsible for the**
14 **child's health or welfare.**

15 1. Upon determination by the department or ~~the department's designee~~authorized agent
16 that a report made under this chapter implicates a person other than a person
17 responsible for a child's welfare, the department or authorized agent shall refer the
18 report to an appropriate law enforcement agency for investigation and disposition.

19 2. If law enforcement determines a minor committed an act in violation of sections
20 12.1-20-01 through 12.1-20-04, section 12.1-20-07, sections 12.1-20-11 through
21 12.1-20-12.2, or chapter 12.1-27.2 against another minor, law enforcement shall
22 provide the report to the department or authorized agent. Law enforcement shall
23 conduct a criminal investigation and shall coordinate with the department or authorized
24 agent for the provision of services to the minors, parents, custodians, or other persons
25 serving in loco parentis with respect to the minors.

26 3. The department or authorized agent shall provide risk assessment, safety planning,
27 and any appropriate evidence-based screening for the minors and any other minors
28 under the same care. The department or authorized agent shall refer the minors,
29 parents, custodians, or other persons serving in loco parentis with respect to the
30 minors, for appropriate services.

1 **SECTION 12. AMENDMENT.** Section 50-25.1-05.4 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-25.1-05.4. Department to adopt rules for review of child protection assessment**
4 **findings.**

5 The department shall adopt rules to resolve complaints and conduct appeal hearings
6 requested by the subject of a report of suspected child abuse, neglect, or death resulting from
7 abuse or neglect who is aggrieved by the ~~conduct or result of a child protection~~
8 ~~assessment~~confirmed decision.

9 **SECTION 13. AMENDMENT.** Section 50-25.1-05.5 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-25.1-05.5. Child abuse information index - Establishment.**

12 The division of children and family services or other division as determined appropriate by
13 the department shall maintain a child abuse information index of all reports ~~of decisions that~~
14 ~~services are required~~confirmed or confirmed with unknown subjects for child abuse, neglect, or
15 death resulting from abuse or neglect which are filed pursuant to section 50-25.1-05.2.

16 **SECTION 14. AMENDMENT.** Section 50-25.1-05.6 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **50-25.1-05.6. Interviews on school property.**

19 The department, authorized agent, or appropriate law enforcement agency shall notify the
20 school principal or other appropriate school administrator of its intent to conduct an interview on
21 school property pursuant to section 50-25.1-05. The school administrator may not disclose the
22 nature of the notification or any other related information concerning the interview to any
23 person, including a person responsible for the child's welfare. The school administrator and
24 department, authorized agent, or law enforcement agency shall make every effort to reduce the
25 disruption of the educational program of the child, other students, or school staff when an
26 interview is conducted on school property.

27 **SECTION 15. AMENDMENT.** Section 50-25.1-06 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **50-25.1-06. Protective and other services to be provided.**

30 The department shall provide protective services for ~~thea child meeting the definition of an~~
31 ~~abused or neglected child and~~ who is at substantial risk of continued abuse or neglect due to a

1 supported state of impending danger, as well as other children under the same care as may be
2 necessary for their well-being and safety and shall provide other appropriate social services, as
3 the circumstances warrant, to the parents, custodian, or other persons serving in loco parentis
4 with respect to the child or the other children. The department may discharge the duties
5 described in this section through an authorized agent. The department may provide protective
6 services, as resources permit, for any child, other children under the same care, parents,
7 custodian, or other persons serving in loco parentis upon concurrence of the parent, custodian,
8 or other persons serving in loco parentis.

9 **SECTION 16. AMENDMENT.** Section 50-25.1-07 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-25.1-07. Protective custody.**

12 Any physician examining a child with respect to whom abuse or neglect is known or
13 suspected, after reasonable attempts to advise the parents, guardian, or other person having
14 responsibility for the care of the child that the physician suspects has been abused or
15 neglected, may keep the child in the custody of the hospital or medical facility for not to exceed
16 ninety-six hours and must immediately notify the juvenile court and the department or
17 authorized agent in order that child protective proceedings may be instituted.

18 **SECTION 17. AMENDMENT.** Section 50-25.1-09.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-25.1-09.1. Employer retaliation prohibited - Penalty.**

- 21 1. An employer ~~whethat~~ retaliates against an employee solely because the employee in
22 good faith reported having reasonable cause to suspect that a child was abused or
23 neglected, or died as a result of abuse or neglect, or because the employee is a child
24 with respect to whom a report was made, is guilty of a class B misdemeanor. It is a
25 defense to any charge brought under this section that the presumption of good faith,
26 described in section 50-25.1-09, has been rebutted.
- 27 2. The employer of a ~~person~~ individual required or permitted to report pursuant to
28 section 50-25.1-03 ~~whewhich~~ retaliates against the ~~person~~ individual because of a
29 report of abuse or neglect, or a report of a death resulting from child abuse or neglect,
30 is liable to that ~~person~~ individual in a civil action for all damages, including exemplary
31 damages, costs of the litigation, and reasonable attorney's fees.

- 1 3. There is a rebuttable presumption that any adverse action within ninety days of a
2 report is retaliatory. For purposes of this subsection, an "adverse action" is action
3 taken by an employer against the ~~person~~individual making the report or the child with
4 respect to whom a report was made, including:
- 5 a. Discharge, suspension, termination, or transfer from any facility, institution,
6 school, agency, or other place of employment;
 - 7 b. Discharge from or termination of employment;
 - 8 c. Demotion or reduction in remuneration for services; or
 - 9 d. Restriction or prohibition of access to any facility, institution, school, agency, or
10 other place of employment or ~~persons~~individuals affiliated with it.

11 **SECTION 18. AMENDMENT.** Section 50-25.1-11 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **50-25.1-11. Confidentiality of records - Authorized disclosures.**

- 14 1. A report made under this chapter, as well as any other information obtained, is
15 confidential and must be made available to:
- 16 a. A physician who has before the physician a child whom the physician reasonably
17 suspects may have been abused or neglected.
 - 18 b. A person who is authorized to place a child in protective custody and has before
19 the person a child whom the person reasonably suspects may have been abused
20 or neglected and the person requires the information to determine whether to
21 place the child in protective custody.
 - 22 c. Authorized staff of the department and its authorized agents, children's advocacy
23 centers, and appropriate state and ~~local~~ child protection team members, and
24 citizen review committee members.
 - 25 d. Any person who is the subject of the report; provided, however, that the identity
26 of persons reporting or supplying information under this chapter is protected until
27 the information is needed for use in an administrative proceeding arising out of
28 the report.
 - 29 e. Public officials and their authorized agents who require the information in
30 connection with the discharge of their official duties.

- 1 f. A court, including an administrative hearing office, whenever the court determines
2 that the information is necessary for the determination of an issue before the
3 court.
- 4 g. A person engaged in a bona fide research purpose approved by the department's
5 institutional review board; provided, however, that no individually identifiable
6 information as defined in section 50-06-15 is made available to the researcher
7 unless the information is absolutely essential to the research purpose and the
8 department gives prior approval.
- 9 h. ~~A person~~An individual who is identified in subsection 1 of section 50-25.1-03, and
10 who has made a report of suspected child abuse or neglect, if the child is likely to
11 or continues to come before the reporter in the reporter's official or professional
12 capacity.
- 13 i. A parent or a legally appointed guardian of the child identified in the report as
14 suspected of being, or having been, abused or neglected, provided the identity of
15 persons making the report or supplying information under this chapter is
16 protected. Unless the information is confidential under section 44-04-18.7, when
17 a decision is made under section 50-25.1-05.1 that ~~services are required to~~
18 ~~provide for the protection and treatment of a~~ child is abused or neglected child,
19 the department or authorized agent shall make a good-faith effort to provide
20 written notice of the decision to ~~persons~~individuals identified in this subsection.
21 The department or authorized agent shall consider any known domestic violence
22 when providing notification under this section.
- 23 j. A public or private school that is the subject of a report of institutional child abuse
24 or neglect, provided the identity of the persons reporting or supplying the
25 information under this chapter is protected, except if the individuals reporting or
26 supplying information are employees of the public or private school.
- 27 2. In accordance with subsection 3 of section 50-11.1-07.8, the department or authorized
28 agent shall notify the owner, operator, holder of a self-declaration, or in-home provider
29 and shall notify the parent or legally appointed guardian of a child, who at the time of
30 notification is receiving early childhood services under chapter 50-11.1, of the name of
31 the subject and provide a summary of the facts and the results of a child protection

1 assessment conducted under this chapter if the report made under this chapter
2 involves the owner, operator, holder of a self-declaration, or in-home provider; or
3 involves an adult or minor staff member or adult or minor household member of the
4 early childhood program, self-declaration, or in-home provider, who is providing care to
5 the child.

6 3. In accordance with subsection 4 of section 50-25.1-04.1, the department may notify
7 the residential facility or setting's board of directors and any entity that accredits the
8 facility or setting of the institutional child abuse or neglect indicated determination,
9 written report of the state child protection team, the approved improvement plan, and
10 areas of deficiency that resulted in the notification.

11 4. If a public or private school is the subject of a report of institutional child abuse or
12 neglect, any records and information obtained, created, generated, or gathered by the
13 public or private school in response to the report or during an investigation by the
14 public or private school of the alleged conduct set forth in the report, are confidential
15 until the state child protection team makes a determination in accordance with section
16 50-25.1-04.1 whether institutional child abuse or neglect is indicated.

17 **SECTION 19. AMENDMENT.** Section 50-25.1-13 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **50-25.1-13. Penalty for failure to report - Penalty and civil liability for false reports.**

20 Any ~~person~~individual required by this chapter to report or to supply information concerning a
21 case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who
22 willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor. Any
23 ~~person~~individual who willfully, as defined in section 12.1-02-02, makes a false report, or
24 provides false information ~~which~~that causes a report to be made, under this chapter is guilty of
25 a class B misdemeanor unless the false report is made to a law enforcement official, in which
26 case the ~~person~~individual who causes the false report to be made is guilty of a class A
27 misdemeanor. ~~A person~~An individual who willfully makes a false report, or willfully provides false
28 information that causes a report to be made, under this chapter is also liable in a civil action for
29 all damages suffered by the person reported, including exemplary damages.

30 **SECTION 20. AMENDMENT.** Section 50-25.1-14 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **50-25.1-14. Unauthorized disclosure of reports - Penalty.**

2 Any ~~person~~individual who permits or encourages the unauthorized disclosure of reports
3 made or confidential information obtained under the provisions of this chapter is guilty of a
4 class B misdemeanor.

5 **SECTION 21. AMENDMENT.** Section 50-25.1-15 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-25.1-15. Abandoned infant - Approved location procedure - Reporting immunity.**

8 1. As used in this section:

9 a. "Abandoned infant" means an infant who has been abandoned at birth at a
10 hospital or before reaching the age of one year regardless of the location of birth
11 and who has been left with an on-duty staff member at an approved location in
12 an unharmed condition.

13 b. "Approved location" means a hospital or other location as designated by
14 administrative rule adopted by the department.

15 c. "Hospital" means a facility licensed under chapter 23-16.

16 2. A parent of an infant under the age of one year, or an agent of the parent with the
17 parent's consent, may leave the infant with an on-duty staff member at an approved
18 location. Neither the parent nor the agent is subject to prosecution under sections
19 14-07-15 and 14-09-22 for leaving an abandoned infant.

20 3. An approved location shall accept an infant left under this section. The approved
21 location may request information regarding the parents and shall provide the parent or
22 the agent with a medical history form and an envelope with the approved location's
23 return address. If a hospital accepting the infant has the infant's medical history, the
24 hospital is not required to provide the parent or the agent with a medical history form.
25 Neither the parent nor the agent is required to provide any information.

26 4. If an infant is left at a hospital, the hospital shall provide the parent or the agent with a
27 numbered identification bracelet to link the parent or the agent to the infant, unless
28 due to birth of the infant, the infant and parent currently have an identification bracelet.
29 Possession of an identification bracelet does not entitle the bracelet holder to take
30 custody of the infant on demand. If an individual possesses a bracelet linking the
31 individual to an infant left at a hospital under this section and parental rights have not

1 been terminated, possession of the bracelet creates a presumption that the individual
2 has standing to participate in a protection services action brought under this chapter or
3 chapter 27-20. Possession of the bracelet does not create a presumption of maternity,
4 paternity, or custody.

5 5. The approved location may provide the parent or the agent with any relevant
6 information, including:

7 a. Information about the safe place for abandoned infant programs;

8 b. Information about adoption and counseling services; and

9 c. Information about whom to contact if reunification is sought.

10 6. Within twenty-four hours of receiving an infant under this section, the approved
11 location shall report to the department or authorized agent, as required by section
12 50-25.1-03, that an infant has been left at the approved location. The report may not
13 be made before the parent or the agent leaves the approved location.

14 7. The approved location and its employees and agents are immune from any criminal or
15 civil liability for accepting an infant under this section.

16 8. Upon receiving a report of an abandoned infant under this section, the department or
17 authorized agent shall proceed as required under this chapter if it appears that the
18 abandoned infant was not harmed, except the department or authorized agent may
19 not attempt to identify or contact the parent or the agent. If it appears the infant who
20 was left was harmed, the department or authorized agent shall initiate a child
21 protection assessment of the matter as required by law.

22 9. If an individual claiming to be the parent or the agent contacts the department or
23 authorized agent and requests to be reunited with the infant who was left, the
24 department or authorized agent may identify or contact the individual as required
25 under this chapter and all other applicable laws. If an individual contacts the
26 department or authorized agent seeking information only, the department or
27 authorized agent may attempt to obtain information regarding the identity and medical
28 history of the parents and may provide information regarding the procedures in a case
29 involving an infant who was left at an approved location. The individual is under no
30 obligation to respond to the request for information, and the department or authorized

1 agent may not attempt to compel response to investigate the identity or background of
2 the individual.

3 10. The state department of health, in coordination with the department of human
4 services, shall develop and implement a public awareness campaign to provide
5 information, public service announcements, and educational materials regarding this
6 section to the public, including medical providers, law enforcement, and social service
7 agencies.

8 **SECTION 22. AMENDMENT.** Section 50-25.1-16 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **50-25.1-16. Prenatal exposure to controlled substances - Reporting requirements.**

- 11 1. An individual required to report under section 50-25.1-03 who has knowledge of or
12 reasonable cause to suspect that a woman is pregnant and has used a controlled
13 substance for a nonmedical purpose during the pregnancy shall report the
14 circumstances to the department or authorized agent if the knowledge or suspicion is
15 derived from information received by that individual in that individual's official or
16 professional capacity.
- 17 2. Any individual may make a voluntary report if the individual has knowledge of or
18 reasonable cause to suspect that a woman is pregnant and has used a controlled
19 substance for a nonmedical purpose during the pregnancy.
- 20 3. If a report alleges a pregnant woman's use of a controlled substance for a nonmedical
21 purpose, the department or ~~its designee~~authorized agent ~~immediately~~ shall
22 ~~immediately~~ initiate an appropriate assessment and offer services indicated under the
23 circumstances. Services offered may include a referral for an addiction assessment, a
24 referral for substance use disorder treatment if recommended, or a referral for prenatal
25 care. The department or ~~its designee~~authorized agent may also take any appropriate
26 action under chapter 25-03.1.
- 27 4. A report and assessment under this section is not required if the pregnant woman
28 voluntarily enters treatment in a licensed treatment program. If the pregnant woman
29 does not complete voluntary treatment or fails to follow treatment recommendations,
30 an individual required to report under section 50-25.1-03 who has knowledge of the

1 failure to complete voluntary treatment or failure to follow treatment recommendations
2 shall make a report as required by this section.

3 5. A report under this section must be made as described in section 50-25.1-04 and must
4 be sufficient to identify the woman, the nature and extent of use, if known, and the
5 name and address of the individual making the report.

6 **SECTION 23. AMENDMENT.** Section 50-25.1-18 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-25.1-18. Prenatal exposure to alcohol abuse - Reporting requirements.**

- 9 1. An individual required to report under section 50-25.1-03 who has knowledge of or
10 reasonable cause to suspect that a woman is pregnant and has abused alcohol after
11 the woman knows of the pregnancy may:
- 12 a. Arrange for an addiction assessment conducted by a licensed treatment program
13 and confirm that the recommendations indicated by the assessment are followed;
14 or
- 15 b. Immediately report the circumstances to the department or authorized agent if
16 the knowledge or suspicion is derived from information received by that individual
17 in that individual's official or professional capacity.
- 18 2. An individual may make a voluntary report if the individual has knowledge of or
19 reasonable cause to suspect that a woman is pregnant and has abused alcohol during
20 the pregnancy.
- 21 3. If the woman is referred for an addiction assessment under subdivision a of
22 subsection 1 and fails to obtain an assessment or refuses to comply with the
23 recommendations of the assessment, an individual required to report under section
24 50-25.1-03 who has knowledge of the failure to obtain the assessment or refusal to
25 comply with recommendations of the assessment shall make a report to the
26 department or authorized agent.
- 27 4. If a report alleges a pregnant woman has abused alcohol, the department or ~~its-~~
28 ~~designee~~authorized agent shall immediately initiate an appropriate assessment and
29 offer services indicated under the circumstances. Services offered may include a
30 referral for an addiction assessment, a referral for substance use disorder treatment, if
31 recommended, or a referral for prenatal care. The department or ~~its-~~

1 ~~designee~~authorized agent may also take any appropriate action under chapter
2 25-03.1.

3 5. A report and assessment under this section is not required if the pregnant woman
4 voluntarily enters treatment in a licensed treatment program. If the pregnant woman
5 does not complete voluntary treatment or fails to follow treatment recommendations,
6 an individual required to report under section 50-25.1-03 who has knowledge of the
7 failure to complete voluntary treatment or failure to follow treatment recommendations
8 shall make a report as required by this section.

9 6. A report under this section must be made as described in section 50-25.1-04 and must
10 be sufficient to identify the woman, the nature and extent of the abuse of alcohol, any
11 health risk associated with the abuse of alcohol, and the name and address of the
12 individual making the report.

13 **SECTION 24. AMENDMENT.** Section 50-25.1-19 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **50-25.1-19. Child protective services duties - Training requirements.**

16 1. The department or authorized agent, at the initial time of contact with an individual
17 subject to a child abuse or neglect assessment, shall advise the individual of the
18 specific complaints or allegations made against the individual.

19 2. The department or authorized agent shall provide training to all representatives of the
20 child protective services system regarding the legal duties of the representatives. The
21 training may consist of various methods of informing the representatives of these
22 duties, to protect the legal rights and safety of children and families from the initial time
23 of contact during assessment through treatment.

24 3. The department shall adopt rules to implement the requirements of this section.

25 **SECTION 25. AMENDMENT.** Section 50-25.1-20 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **50-25.1-20. Alternative response assessment - Compliance.**

28 If an alternative response assessment is initiated as a result of a report of child abuse or
29 neglect, a decision that ~~services are required~~a child is confirmed abused or neglected may not
30 be made if the person responsible for the child's welfare complies with the resulting referred
31 services and plan of safe care for the substance exposed newborn. The department or

1 authorized agent shall determine whether a person responsible for the child's welfare has
2 complied with the referred services and plan of safe care for the substance exposed newborn. If
3 the department or authorized agent determines a person responsible for the child's welfare has
4 not complied with the referred services and plan of safe care for the substance exposed
5 newborn, an assessment of the initial report of child abuse or neglect may be completed.

6 **SECTION 26. AMENDMENT.** Section 50-25.1-21 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-25.1-21. Alternative response assessment - Services.**

- 9 1. In response to an alternative response assessment, the department:
- 10 a. Shall provide referral services to, and monitor support services for, the person
11 responsible for the child's welfare, the substance exposed newborn, and other
12 children under the same care as may be necessary for their well-being and
13 safety;
- 14 b. Shall develop a plan of safe care for the substance exposed newborn; and
- 15 c. May take any appropriate action under chapter 25-03.1.
- 16 2. The department may discharge the powers and duties provided under this section
17 through an authorized agent.

18 **SECTION 27. AMENDMENT.** Section 50-25.1-22 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-25.1-22. Family services assessment - Compliance.**

21 If a family services assessment is initiated as a result of a report of child abuse or neglect, a
22 decision that ~~services are required~~ a child is confirmed abused or neglected may not be made if
23 ~~the~~ a person responsible for the child's welfare complies with the resulting referred services for
24 the child. The department or authorized agent shall determine whether a person responsible for
25 the child's welfare has complied with the referred services. If the department or authorized
26 agent determines a person responsible for the child's welfare has not complied with the referred
27 services for the child, a child protection assessment of the initial report of child abuse or neglect
28 may be completed.

29 **SECTION 28. AMENDMENT.** Section 50-25.1-23 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **50-25.1-23. Family services assessment - Services.**

- 2 1. In response to a family services assessment, the department shall provide appropriate
3 referral services to ~~the~~a person responsible for the child's welfare and the children
4 under the same care as may be necessary for the well-being and safety of the
5 children.
- 6 2. The department may discharge the powers and duties provided under this section
7 through an authorized agent.