

# MENTAL AND PHYSICAL ILLNESS OR DISABILITY

## CHAPTER 271

### SENATE BILL NO. 2052

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 25-01-03, 25-04-00.1, 25-04-01, 25-04-02, 25-04-02.1, 25-04-04, 25-04-04.1, 25-04-05, 25-04-05.1, 25-04-06, 25-04-08, 25-04-08.1, 25-04-11, 25-04-11.1, 25-04-11.2, 25-04-14, 25-04-15, 25-04-16, 25-04-17, and 25-04-19, and subsection 3 of section 54-44.3-20 of the North Dakota Century Code, relating to the operation of the life skills and transition center and life skills and transition center's superintendent's employment, roles, and duties.

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

**SECTION 1. AMENDMENT.** Section 25-01-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **25-01-03. Supervising officer to appoint superintendent of institutions - Salaries - Removal.**

1. The supervising officer shall appoint a superintendent for each of the institutions under its control, except for the state hospital, where the supervising officer shall appoint a superintendent in consultation with a state hospital governing body.
2. The tenure of office of each superintendent is two years from the date of the superintendent's appointment, and the superintendent must possess qualifications required by this title. Any superintendent may be removed by the supervising officer for misconduct, neglect of duty, incompetency, or other proper cause showing the superintendent's inability or refusal properly to perform the duties of office. A removal at a time other than a termination of the superintendent's two-year tenure may be had only after an opportunity is given to the person to be heard before a board consisting of the governor, attorney general, and supervising officer of the institution on preferred written charges. A removal when made, however, is final. This subsection does not apply to the superintendent of the life skills and transition center, the superintendent of North Dakota vision services - school for the blind, or the superintendent of the school for the deaf, whose positions are included in the classified service as provided in section 54-44.3-20.
3. The supervising officer shall fix the compensation of each superintendent within the limits prescribed in this title and within the appropriations made by the legislative assembly for compensation.

**SECTION 2. AMENDMENT.** Section 25-04-00.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-00.1. Definitions.**

For the purposes of this chapter:

1. "Department" means the department of health and human services.
2. "Eligible" means an individual has been deemed eligible by the department for developmental disability services.
3. "Individual served" is an individual who is a legal resident of the state of North Dakota and is receiving services from the life skills and transition center.
4. "Nonresident patient at the life skills and transition center individual served" includes:
  - a. Any patient at individual served by the life skills and transition center who is under eighteen years old and whose responsible relative is not a bona fide resident of this state.
  - b. Any Indian patient enrolled member of a federally recognized Indian tribe for whom the United States government has, through its statutes and regulations, a responsibility for their care.
- 2.5. "Nonresident responsible relative" includes the patient's nonresident spouse, father, or mother of the individual served. It includes the bureau of Indian affairs in those cases involving an enrolled member of a federally recognized Indian patient tribe for whom the United States government has, through its statutes and regulations, a responsibility for their care.
6. "Nonresidential services" means rehabilitative services and supports that are provided in a family home or community setting.
7. "Residential services" are specialized services and supports provided at the life skills and transition center facility which include both room and board and rehabilitative services in accordance with an individual's care and support plan. Residential services provided at the life skills and transition center are available to address an individual's needs for stabilization.

**SECTION 3. 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 individuals with developmental disabilities must be maintained at or near the city of Grafton in Walsh County. ~~The facility must also be available for an individual who is determined to be 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 health and human services has administrative authority and control of the life skills and transition center.

**SECTION 4. 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 purpose of the life skills and transition center is to serve as a specialty care and support resource for eligible individuals with developmental disabilities who are experiencing crisis or who would benefit from stabilization, and to work together with parent, guardian, or legal custodian and care teams to identify opportunities for each individual served to live in a family home or community setting of their choice when possible.
2. ~~The life skills and transition center must be maintained for the relief, instruction, care, and custody of to provide care, treatment, training, rehabilitation, and supervision for eligible individuals with developmental disabilities or other individuals who may benefit from the services offered at the center. For this purpose the department of health and human services may introduce and establish such trades and manual industries rehabilitative and support services as, in its judgment, will best prepare the residents for future self-support individuals served to live in the most integrated, independent setting possible.~~
- 2-3. The department life skills and transition center may provide onsite and offsite additional both residential services and nonresidential services and effectuate its powers and duties to best serve eligible individuals with developmental disabilities and other 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 individuals with developmental disabilities or if such accrediting or certifying organization does not accredit or certify the service or duty.

**SECTION 5. AMENDMENT.** Section 25-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

### **25-04-02.1. Accreditation of life skills and transition center.**

~~The department of health and human services shall may request appropriations and resources sufficient to ensure allow for maintenance of the life skills and transition center's accreditation by the accreditation council on services for people with developmental disabilities and/or certification by the health care financing administration and centers for Medicare and Medicaid services or, if deemed necessary, by similar accrediting and certifying organizations and agencies possessing standards applicable to an individual with a developmental disability and disciplines needed to provide quality services to individuals served.~~

**SECTION 6. 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.**

1. Subject to this chapter and to any rules adopted by the department of health and human services, the benefits of the life skills and transition center may be received only by:
  4. a. ~~Individuals with developmental disabilities and other~~ Eligible individuals who may benefit from services provided at by 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 care, treatment, training, rehabilitation, or supervision by the life skills and transition center and/or whose deficiencies/disabilities prevent them from receiving proper training and instruction in the public schools;

2. ~~b.~~ Eligible individuals who, in the opinion of the superintendent of the life skills and transition center, may benefit from services provided at/by the life skills and transition center and who are in need of stabilization supports and cannot be properly cared for in their homes/family home or other available facilities/community settings; or
  3. ~~c.~~ Eligible individuals who, in the opinion of the superintendent of the life skills and transition center, may benefit from onsite and offsite/either residential services or nonresidential services provided or duties effectuated by the life skills and transition center.
2. Residents and nonresidents of this state may receive the benefits of services from the life skills and transition center. Priority, however, must be given to residents of this state and first priority must be given to individuals with developmental disabilities.

**SECTION 7. AMENDMENT.** Section 25-04-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-04.1. Program management for a resident an individual served.**

The department shall ensure active program management is maintained for eligible individuals residing/receiving residential services at the life skills and transition center.

**SECTION 8. AMENDMENT.** Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-05. Qualifications for admission to state facility – Screening required prior to admission or readmission accessing services provided by life skills and transition center - Educational or related services without charge for persons/individuals twenty-one years of age and under.**

1. The superintendent may admit a person an eligible individual to the life skills and transition center when all for residential services based on consideration of the following conditions have been met/factors:
  - a. Application for admission has been made on behalf of the person by a parent or guardian or the person or agency having legal custody, or by the person seeking admission, in accordance with procedures established by the department of health and human services/Ability of the life skills and transition center to provide the appropriate level of care based on the individual's need.
  - b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of health and human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission

- ~~to~~Health and safety considerations for both the individual served and other individuals currently being served by the life skills and transition center.
- c. ~~The person~~individual may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted ~~by~~of the department of health and human services.
2. ~~No person may be admitted or readmitted to the life skills and transition center unless that person has undergone a screening process at the life skills and transition center to determine whether the admission or readmission is appropriate. Length of stay criteria may be established under rules as the department of health and human services may adopt. Any person who is suspected of being able to benefit from the services offered at the center may be screened to ascertain whether or not that person is actually a proper case for care, treatment, and training at the life skills and transition center. If in the opinion of the superintendent the person screened under this subsection is a proper subject for institutional care, treatment, and training at the life skills and transition center, that person may remain as a voluntary resident at the center at the discretion of the superintendent if all other conditions for admission required by this section are met.~~The superintendent may approve an eligible individual for nonresidential services provided by the life skills and transition center if all of the following conditions have been met:
    - a. ~~Application has been made on behalf of the individual by a department developmental disabilities program manager, a parent, guardian, or legal custodian, in accordance with procedures established by the department.~~
    - b. ~~Information has been submitted to the life skills and transition center which allows the superintendent to determine that the individual served would benefit from nonresidential stabilization services offered by the life skills and transition center for the purpose of avoiding institutionalization or further destabilization of the individual's living situation.~~
  3. ~~Notwithstanding any other provision of this chapter, no handicapped patient~~eligible individual served, twenty-one years of age or under, or the estate or the parent of such ~~patient~~individual, may be charged for educational or related services provided at the life skills and transition center. Except as provided in subsection 4, the department of health and human services has prior claim on all benefits accruing to such ~~patients~~individuals served for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a ~~handicapped patient~~an individual with a developmental disability to benefit from special education. The cost of related services other than medical and medically related services must be paid by the life skills and transition center, the school district of residence of the ~~handicapped child~~ with a developmental disability, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department of health and human services, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision

is liable. The department of public instruction may adopt rules necessary to implement this section.

4. Parents of an eligible individual ~~with a developmental disability~~, who is twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of children with disabilities. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:
  - a. A decrease in available lifetime coverage or any other benefit under an insurance policy.
  - b. An increase in premiums or the discontinuation of a policy.
  - c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the life skills and transition center pays or waives the out-of-pocket expense.

**SECTION 9. 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 individuals - Visiting privileges - Release and placement of patients individuals served.**

1. The superintendent shall have the right of temporary transfer of any resident ~~of individual served at~~ 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 individual or the immediate health and safety of others~~ requires the transfer. ~~The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for 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 health and 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 individuals with developmental disabilities~~, any parent ~~or guardian, or legal custodian~~ of the person ~~of a resident individual served~~ shall have the right of visiting and communicating with a ~~child or ward~~ the individual served and authorizing visits and communications with others.
3. The superintendent may authorize the temporary ~~release~~ discharge of any ~~resident individual served~~ to the custody of the ~~resident's individual served's~~ parent ~~or guardian, or legal custodian~~ of the person ~~individual~~, or to another person designated by the parent ~~or such guardian, or legal custodian~~. In the absence of such authorization, any parent ~~or guardian, or legal custodian~~ of the person ~~of any resident individual served~~ may formally request, in writing, the ~~resident's individual served's~~ temporary ~~release~~ discharge. The ~~release~~ discharge must be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If a

~~releasedischarge~~ 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, or legal custodian in writing.

4. The superintendent may arrange for the suitable placement of ~~a residentan~~ individual served outside the life skills and transition center ~~or other state facility~~ and to ~~releasedischarge~~ the ~~resident on placement~~individual, 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~~individual served's care team and parent or, guardian, or legal custodian of the ~~person~~individual served.

**SECTION 10. AMENDMENT.** Section 25-04-06 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-06. Juvenile court ~~commitmentorder~~ for assessment of dependent, neglected, or delinquent ~~mentally deficient~~ -- ~~Commitment for observation~~child with developmental disability - Appeal.**

1. In any proceeding instituted in juvenile court, the court may make an order ~~committingfor assessment of~~ the child ~~to by~~ the life skills and transition center ~~for developmental disability determination~~ whenever it appears to the satisfaction of the court that the child involved in the proceeding is:
  1. a. Dependent and a candidateeligible for services at the life skills and transition center;
  2. b. Neglected and a candidateeligible for services at the life skills and transition center; or
  3. c. Delinquent and a candidateeligible for services at the life skills and transition center.

~~If the court is in doubt as to whether the child is a candidate for services offered at the life skills and transition center, the court may make an order committing the child to the life skills and transition center for observation only by the authorities of such institution.~~

2. If it is ascertained as a result of such ~~observationassessment~~ assessment that the child is ~~a candidateeligible~~ for residential services offered at the life skills and transition center and the child qualifies for accessing services from the life skills and transition center in accordance with section 25-04-04 and subsection 1 of section 25-04-05, a report to such effect must be made by the authorities of the life skills and transition center to the court. The court thereupon shall make an order fixing a time for a hearing upon the report showing the child to be ~~in need of these serviceseligible and qualifying for accessing services offered at the life skills and transition center~~. Notice of the hearing must be given to the parents, custodian, or guardian of such child in the manner prescribed by law for the giving of notice in other proceedings in juvenile court. Upon such hearing, the court shall make such order as it may deem proper. Any parent, custodian, guardian, or other person charged with the control of such child may take an appeal from the order made by the court in the manner now prescribed by law for the taking of appeals from decisions of the juvenile court. ~~The procedure provided in this section is not exclusive but is in addition to other procedures provided in this chapter for the~~

~~commitment of children~~ Admission to residential services at the life skills and transition center must follow the procedures established by the department and in accordance with section 25-04-04 and subsection 1 of section 25-04-05. Any orders for assessment may be accomplished without admission for residential services or transportation to the life skills and transition center.

**SECTION 11. AMENDMENT.** Section 25-04-08 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-08. Discharge of resident individual served from institution life skills and transition center.**

~~A person~~ An individual who has been admitted as a resident receives residential services at the life skills and transition center must be permanently discharged within ~~thirty days under~~ any one of the following conditions are present:

1. The superintendent, on the basis of a comprehensive evaluation and in consultation with the individual's parent, guardian, legal custodian, or care team, finds that the care, treatment, training, rehabilitation, and supervision offered by the ~~state~~ life skills and transition center are no longer ~~required~~ needed.
2. The parent ~~or~~ guardian, or legal custodian who voluntarily ~~committed~~ admitted the parent's child or the guardian's ward as a resident individual to residential services at the life skills and transition center and who retains legal custody makes a written request for discharge.
3. The ~~person~~ individual is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state; ~~provided, however, that if such admission be by contractual arrangement made by the department of health and human services, the person must be placed on nonresident release status, but not discharged.~~
4. A court of competent jurisdiction orders the discharge of the ~~person~~ individual.

~~Any person who is to be discharged under subsection 2 or 4 shall first receive a comprehensive evaluation unless such evaluation is not completed within thirty days of the request for discharge.~~

<sup>155</sup> **SECTION 12. AMENDMENT.** Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-08.1. Notification before discharge.**

Before discharge the superintendent shall ~~consult~~ meet with the parent ~~or~~ guardian, legal custodian, or care team of the ~~person~~ individual served to be discharged, or with the court that ordered the ~~commitment~~, and ~~shall notify the director of the county social service board or human service zone of the county in which it is proposed that such person will assume residence and also shall notify the executive director of the department of health and human services~~ individual served to receive services at the life skills and transition center pursuant to section 25-04-06.

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<sup>155</sup> Section 25-04-08.1 was also amended by section 75 of House Bill No. 1165, chapter 229.



**SECTION 13. AMENDMENT.** Section 25-04-11 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-11. Disposition of personindividual who is not a legal resident.**

If a personan individual who has no legal residence in this state is subject to admission to the life skills and transition center or ~~other appropriate state facility~~, by order of a court of ~~competent jurisdiction~~ pursuant to section 25-04-06, such personindividual must be ~~sent~~ admitted, at the expense of the county or ~~human service zone~~, to the life skills and transition center in the same manner as a resident of this state who is found to be in need of services offered at the life skills and transition center, and the superintendent of the life skills and transition center shall then arrange for the transportation of such personindividual to the place where the personindividual belongs. The department of ~~health and human services~~ shall ascertain the place where such personindividual belongs when the same conveniently can be done.

**SECTION 14. AMENDMENT.** Section 25-04-11.1 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-11.1. Disposition Admission and disposition of nonresidents - Exceptions-- Reciprocal agreements.**

If a personan individual who has no legal residence in this state or whose residence is unknown is found to be a personan eligible individual requiring care and treatment in, training, rehabilitation, or supervision from the life skills and transition center, the personindividual to be served must be ~~sent~~ admitted to the life skills and transition center in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The ~~supervising~~ department shall immediately inquire as to the residence of the personindividual or the person's individual's responsible relatives, and, if the residence is found to be in another state or country, the ~~supervising~~ department shall arrange for transportation of the personindividual to the place of legal residence or legal settlement unless the personindividual can be accommodated at the life skills and transition center without depriving a North Dakota resident of care and treatment at the life skills and transition center and adequate costs of care are paid for within a reasonable time, or unless a reciprocal agreement has been entered into with another state regarding the care and commitment of the nonresident. The ~~supervising~~ department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of persons individuals who are within one state but have legal residence or legal settlement in another state. The agreements may not contain any provision conflicting with any law of this state.

**SECTION 15. AMENDMENT.** Section 25-04-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-11.2. Liability for care and treatment of nonresident patients individuals served.**

Nonresident patients at individuals served by the life skills and transition center and nonresident responsible relatives of patients individuals served are liable for the chargeable costs of care and treatment at the life skills and transition center.

**SECTION 16. AMENDMENT.** Section 25-04-14 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-14. Expenses chargeable against patient/individual or patient's/individual's estate - Filing claims.**

Expenses for care and treatment of each patient/individual served by the life skills and transition center must, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's/individual served's ability to pay which must include an estimate of potential future receipts, including amounts from estates. The supervising department shall recover from the patient/individual served or from a discharged patient/individual expenses chargeable for care and treatment. If any patient/individual served is receiving social security benefits or is a veteran or a dependent of a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, the expenses are a current claim against the patient/individual served and may be recovered monthly by the supervising department except that any amount required by the payer of the benefits to be paid directly to the patient/individual served must, upon approval of the department of health and human services, be credited to the patient's/individual served's personal account from any money thus received.

**SECTION 17. AMENDMENT.** Section 25-04-15 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-15. Expenses chargeable against guardianship estate of patient/individual served - Restrictions.**

The expenses chargeable by the state for the care and treatment of any patient/individual served over twenty-one years of age at the life skills and transition center must be charged against the guardianship estate of such patient/individual, if the patient/individual has such an estate, subject to the following restrictions:

1. No part of the estate may be taken for such purpose if the patient/individual has dependents within the United States dependent upon the estate for support and the taking of all or a portion of the estate would result in undue hardship to those dependents.
2. No real property belonging to the estate may be sold during the lifetime of the patient/individual served except for the maintenance and support of the patient's/individual served's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the district court having jurisdiction of the estate, with the consent of the department of health and human services.
3. No personal property belonging to the estate may be sold within five years from the date upon which the patient/individual was sent to the life skills and transition center unless the property is ordered sold by the district court having jurisdiction of the estate for the reason that the property is likely to deteriorate in value during the time herein specified.
4. No claim may be made to recover from the estate of a former resident/individual served of the life skills and transition center who has left the life skills and transition center and married and leaves a spouse or issue dependent upon such estate.

**SECTION 18. AMENDMENT.** Section 25-04-16 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-16. Waiver of payment - Use of income tax data - Confidentiality - Definition.**

1. Except with respect to services provided and duties effectuated for persons other than ~~residents of individuals served by~~ the life skills and transition center who are developmentally disabled, and except with respect to services provided and duties effectuated under subsection 2 of section 25-04-02, the ~~resident individual served~~, former ~~resident individual served~~, parent of a ~~resident individual served~~ or former ~~resident individual served~~ under age eighteen, personal representative, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the ~~resident's individual served's~~ care and treatment at the life skills and transition center. An application from a ~~resident individual served~~, former ~~resident individual~~, personal representative, or guardian must be accompanied by proof of the ~~resident's individual served's~~ or the estate of the ~~resident's individual served's~~ inability to pay. An application from a parent of a ~~resident individual served~~ or former ~~resident individual served~~ must be accompanied by proof that the parent has applied for or cooperated fully in an application for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs for provision of services to the ~~resident individual served~~, and has assured the contribution of those services, compensation, and contract and program benefits to meet the cost of care provided to the ~~resident individual served~~ by the life skills and transition center. A waiver must be granted upon receipt of an application from such a parent, which is complete and supported by the required proofs and is effective for so long as the parent continues to apply for or cooperate fully in applications for services, compensation, and contract and program benefits, and continues to assure the contribution of those services, compensation, and benefits to meet the costs of care. A waiver, once granted with respect to a ~~resident individual served~~ under age eighteen, extinguishes any debt that would otherwise be owed by the ~~resident individual served~~, the ~~resident's individual served's~~ parents, or the ~~resident's individual served's~~ estate with respect to care and treatment furnished during times the waiver is effective.
2. Upon receipt of such application, the ~~supervising~~ department shall direct the human service zone of the county from which the ~~patient individual served~~ was admitted to determine whether the application is complete and supported by the required proofs. The ~~supervising~~ department shall approve, reject, or amend the determination made by the human service zone. The determination made by the ~~supervising~~ department may be appealed to the district court of the county of residence of the ~~patient individual served~~.
3. Any ~~patient individual served~~, former ~~patient individual served~~, parent of a ~~patient individual served~~ or former ~~patient individual served~~, guardian, or personal representative who seeks relief from the payment of the cost of care and treatment by filing an application for relief of payment shall do so with the understanding that the ~~supervising~~ department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks, and from other sources likely to possess verifying information. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or

any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

4. When any official or employee of the life skills and transition center who, pursuant to subsection 1, obtains income tax information or other tax information from the state tax commissioner the confidentiality of which is protected by law, such official or employee may not divulge such information except to the extent necessary for the administration of this chapter or when otherwise directed by judicial order or when otherwise provided by law.
5. ~~As used in this chapter, "supervising department" means the department of health and human services.~~

**SECTION 19. AMENDMENT.** Section 25-04-17 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-17. Reduction or writeoff of accounts - Report to legislative audit and fiscal review committee.**

The supervising department may authorize the reduction or writeoff of a ~~patient's~~ an individual served's past-due account from the life skills and transition center's financial records upon determining that the account is not collectible. The ~~supervising~~ department, by September first after the close of each fiscal year, shall present a detailed report to the legislative audit and fiscal review committee on the status of accounts receivable for that fiscal year. The report must include:

1. An aging by ~~patient~~individual classification of accounts remaining unpaid.
2. The amounts by ~~patient~~individual classification by which accounts were reduced or written off for reasons other than payment during that fiscal year.

**SECTION 20. AMENDMENT.** Section 25-04-19 of the North Dakota Century Code is amended and reenacted as follows:

**25-04-19. Quality assurance review committees - Reports - Immunity.**

Any information, data, report, or record generated by or made available to an internal quality assurance review committee of the life skills and transition center or members thereof is confidential and may be used by the committee and the members thereof only in the exercise of the proper functions of the committee. The proceedings and records of the committee and the members thereof are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter under consideration by the committee. Any information, document, or record otherwise available from original sources is not immune from discovery or use in any civil action merely because it was presented during the proceedings of the committee, nor may any person who testified before the committee or who is a member of it be prevented from testifying as to matters within that person's knowledge, but a witness cannot be asked about that witness's testimony before the committee. This section does not relieve any person of any liability incurred as a result of furnishing health care to the resident. No person furnishing information, data, reports, or records to the committee with respect to any resident of the life skills and transition center is, by reason of furnishing the information, data, reports, or records, liable in damages to any resident, or answerable for willful violation of a privileged or confidential communication. No member of the committee is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the

committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to the member.

<sup>156</sup> **SECTION 21. AMENDMENT.** Subsection 3 of section 54-44.3-20 of the North Dakota Century Code is amended and reenacted as follows:

3. Administrative heads of departments required by law, other than the superintendent of the life skills and transition center, superintendent of North Dakota vision services - school for the blind, the superintendent of the school for the deaf, and the state librarian.

Approved April 4, 2023

Filed April 5, 2023

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<sup>156</sup> Section 54-44.3-20 was also amended by section 3 of Senate Bill No. 2022, chapter 54.

## CHAPTER 272

### SENATE BILL NO. 2083

(State and Local Government Committee)  
(At the request of the Department of Health and Human Services)

AN ACT to create and enact a new section to chapter 25-02 of the North Dakota Century Code, relating to collaborative care and consultation services provided by the state hospital; to amend and reenact sections 25-02-03, 50-06-05.2, 50-06-05.3, and 50-06-06.5 of the North Dakota Century Code, relating to the object of the state hospital and the operation of regional human service centers; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 25-02-03 of the North Dakota Century Code is amended and reenacted as follows:

##### **25-02-03. Object of state hospital.**

The state hospital is an institution for mental diseases serving specialized populations of ~~the mentally ill individuals with severe mental illness, including persons suffering from drug addiction or alcoholism~~ individuals with a substance use disorder. The state hospital is one component of the North Dakota mental health delivery system and serves as a resource to community-based treatment programs. The state hospital shall, pursuant to rules adopted by the department of health and human services, receive and care for all ~~mentally ill persons~~ eligible individuals with severe mental illness, including ~~persons suffering from drug addiction or alcoholism~~ individuals with a substance use disorder, residing within this state in accordance with this title, and ~~shall~~ may furnish to those ~~mentally ill persons~~ individuals all needed food, shelter, treatment, and support that ~~may tend to restore their mental health or to alleviate their illness or suffering~~.

**SECTION 2.** A new section to chapter 25-02 of the North Dakota Century Code is created and enacted as follows:

##### **Collaborative care - Consultation services.**

The state hospital may provide behavioral health collaborative care and consultation services, including psychiatric consultation, with private providers and correctional facility providers.

**SECTION 3. AMENDMENT.** Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

##### **50-06-05.2. Regional human service centers - Licensure.**

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. The department shall request appropriations and resources sufficient for accreditation and to ensure maintenance of the accreditation for the regional human service centers, including associated facilities, by the council on accreditation or by a similar national accrediting body accepted by the department. The regional human service

centers are subject to licensing by the department. The department may use the accreditation as a basis for licensing in lieu of adopted rules for the operation of the regional human service centers. The department shall adopt rules for the operation of the regional human service centers. A regional human service center may not operate without a license issued in accordance with this section. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers.

<sup>157</sup> **SECTION 4. AMENDMENT.** Section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-05.3. Regional human service centers - Powers - Duties - Human service advisory groups.**

1. Regional human service centers shall provide human services to all eligible individuals and families to help individuals and families achieve or maintain social, emotional, and economic self-sufficiency by providing human services to:
  - a. Prevent, reduce, or eliminate dependency;
  - b. ~~Prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests;~~
  - c. ~~Aid in the preservation, rehabilitation, and reuniting of families;~~
  - d. Prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care;
  - e-c. ~~Secure referral or admission for institutional care;~~
  - f-d. ~~Provide outpatient diagnostic and treatment services; and~~
  - g. ~~Provide information concerning guardianship to people interested in becoming or who are guardians; and~~
  - h-e. Provide rehabilitation and crisis services for patients with mental, emotional, or substance use disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in an inpatient facility.
2. Regional human service centers shall deliver services in the manner prescribed by the department.
3. Regional human service centers may provide behavioral health collaborative care and consultation services, including psychiatric consultation, with private providers and correctional facility providers.
4. Each regional human service center must have a human services advisory group consisting of the human service zone directors of the region served, the public health directors of the region served, two current county commissioners appointed by the executive director of the department, and five additional

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<sup>157</sup> Section 50-06-05.3 was also amended by section 112 of House Bill No. 1165, chapter 229.

members appointed by the executive director of the department. Each advisory group member must be a resident of the region the member is appointed to serve. The term of office for each appointed member is two years and arranged so that the term of three of the appointed members expires at the end of the first year and the term of the remaining four appointed members expires at the end of the second year, except for those first members appointed, three members shall serve a one-year term and four members shall serve a two-year term. The director shall select the appointed members of each human service advisory group on the basis of population of the counties in the region served by the regional human service center. Each county in the region must be represented by at least one member on the human service advisory group. To the extent possible, appointed membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and substance use disorders. The executive director of the department shall appoint a chairman for each advisory group from the membership of the advisory group. The executive director of the department shall fill a vacancy occurring within an advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate appointed members of a human service advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

**SECTION 5. AMENDMENT.** Section 50-06-06.5 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-06.5. Continuum of services for individuals with serious and persistent mental illness.**

1. The department shall develop a plan for an integrated, multidisciplinary continuum of services for individuals with serious and persistent mental illness. The continuum may consist of an array of services provided by private mental health professionals, private agencies, human service zones, regional human service centers, community-based residential care and treatment facilities, and private and public inpatient psychiatric hospitals. When appropriate, access to the continuum must be through regional human service centers. Within the limits of legislative appropriations, the plan for a continuum may include:
  - a. Programs, and appropriate related facilities, to provide socialization skills.
  - b. Programs, and appropriate related facilities, to provide basic living skills.
  - c. Appropriate residential facilities and other housing options.
  - d. Appropriate training, placement, and support to enhance potential for employment.
  - e. Appropriate delivery and control of necessary medication.
  - f. Appropriate economic assistance.



- g. An inpatient facility with appropriate programs to respond to persons who require hospitalization.
  - h. Peer and recovery support.
  - i. Crisis service that is available twenty-four hours a day seven days a week.
2. The continuum of care must provide that a person requiring treatment be submitted to the least restrictive available conditions necessary to achieve the purposes of treatment. The department shall ensure appropriate cooperation with human service zones and private providers in achieving the continuum of care.

**SECTION 6. EMERGENCY.** Sections 2 and 4 of this Act are declared to be an emergency measure.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 273

### HOUSE BILL NO. 1043

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 25-03.2-01, 25-03.2-03, and 25-03.2-06 of the North Dakota Century Code, relating to licensure of a psychiatric residential treatment facility for children and admission criteria.

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

**SECTION 1. AMENDMENT.** Section 25-03.2-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **25-03.2-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "Child" or "children" means a person or persons under the age of twenty-one.
2. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery.
3. "Department" means the department of health and human services.
4. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a mentally ill person using diagnostic, interview, and other relevant assessment techniques.
5. "Individual treatment plan" means a written plan of intervention, treatment, and services for a mentally ill person that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.
6. "Mentally ill person" has the same meaning provided for in section 25-03.1-02.
7. "Psychiatric residential treatment facility for children" means a facility or a distinct part of a facility that provides to children a total, twenty-four hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment, and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting. The facility must meet the requirements of a psychiatric residential treatment facility as set out in title 42, Code of Federal Regulations, part 483.352.
8. "Residential treatment" means a twenty-four hour a day program under the clinical supervision of a mental health professional, in a community residential

setting other than an acute care hospital, for the active treatment of mentally ill persons.

9. "Serious risk of harm" means a substantial likelihood of:
- a. Suicide, as manifested by current suicidal threats, attempts, or significant depression creating immediate risk of suicide;
  - b. Killing or inflicting serious bodily harm to self or another person, as manifested by current act; or
  - c. Substantial deterioration in physical health or substantial injury, disease, or death based on current poor self-control or judgment.

<sup>158</sup> **SECTION 2. AMENDMENT.** Section 25-03.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.2-03. Requirements for license.**

The department shall issue a license for the operation of a psychiatric residential treatment facility for children upon a showing that:

1. The premises to be used are in fit, safe, and sanitary condition and properly equipped to provide good care and treatment;
2. The program director of the facility holds, at a minimum, a ~~master's~~bachelor's degree in social work, psychology, or in a related field with ~~at least two years of professional experience in the treatment of~~working with children suffering from mental illnesses or emotional disturbances. The executive director of the facility must have, at a minimum, a bachelor's degree in a behavioral science or a bachelor's degree in any field and two years of experience in administration;
3. The staff employed by the facility is supervised by the program director and qualified by training and experience to provide services to children suffering from mental illnesses or emotional disturbances. The facility annually must provide training to staff which is relevant to the needs of the client population;
4. The health, safety, and well-being of the children cared for and treated in the facility will be properly safeguarded;
5. There are sufficient treatment, educational, recreational and leisure, and physical facilities and services available to the children in the facility;
6. The facility will provide for a medical and psychological examination of each child within seventy-two hours of admission and thereafter as needed by the child;
7. An interdisciplinary team will review each individual treatment plan at least monthly and update or amend the plan to meet the needs of the child;
8. The facility develops postdischarge plans and coordinates facility services and related community services with partial discharge plans with each child's

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<sup>158</sup> Section 25-03.2-03 was also amended by section 2 of Senate Bill No. 2051, chapter 274.

family, school, and community upon discharge to ensure continuity of care; and

9. The facility is in compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and title 42, Code of Federal Regulations, part 441, and with this chapter and rules adopted under this chapter.

**SECTION 3. AMENDMENT.** Section 25-03.2-06 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.2-06. Admission criteria.**

A child may be admitted to a psychiatric residential treatment facility for children if, the :

1. The child has been diagnosed by a psychiatrist or psychologist as suffering from a mental illness or emotional disturbance and the child is in need of and able to respond to active psychotherapeutic intervention and cannot be effectively treated in the child's family, in another home, or in a ;
2. The child's situation meets the definition of serious risk of harm; and
3. A less restrictive setting. The facility must take into account the age and diagnosis of the child in order to provide an environment that is safe and therapeutic for all children cannot meet the immediate treatment need.

Approved April 10, 2023

Filed April 11, 2023

## CHAPTER 274

### SENATE BILL NO. 2051

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to create and enact a new section to chapters 25-03.2 and 50-06 of the North Dakota Century Code, relating to fingerprint criminal history record investigations for psychiatric residential facilities for children and for shelter care programs; and to amend and reenact subdivision f of subsection 2 of section 12-60-24 and sections 25-03.2-03, 25-03.2-04, 50-06-01.9, 50-11-06.8, 50-12-03, and 50-25.1-11.1 of the North Dakota Century Code, relating to fingerprint criminal history record checks for certified family foster home for children providers and psychiatric residential treatment facility for children, identifying who the department of health and human services may require criminal history record checks from, and criminal history record checks for volunteers and students for field placement at child-placing agencies and children's advocacy centers.

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

<sup>159</sup> **SECTION 1. AMENDMENT.** Subdivision f of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- f. The department of health and human services for foster care licenses, certified family foster home for children providers, approved tribal foster care facilities, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 25-03.2, 50-06, 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two~~four~~ chapters. The federal bureau of investigation's criminal history record investigation obtained from one criminal history record investigation purpose may not be reused to satisfy the requirements of another federal bureau of investigation's criminal history record investigation for a different purpose.

<sup>160</sup> **SECTION 2. AMENDMENT.** Section 25-03.2-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **25-03.2-03. Requirements for license.**

The department shall issue a license for the operation of a psychiatric residential treatment facility for children upon a showing that:

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<sup>159</sup> Section 12-60-24 was also amended by section 1 of House Bill No. 1191, chapter 447, section 1 of Senate Bill No. 2076, chapter 120, and section 1 of Senate Bill No. 2102, chapter 214.

<sup>160</sup> Section 25-03.2-03 was also amended by section 2 of House Bill No. 1043, chapter 273.

1. The premises to be used are in fit, safe, and sanitary condition and properly equipped to provide good care and treatment;
2. The program director of the facility holds, at a minimum, a master's degree in social work, psychology, or in a related field with at least two years of professional experience in the treatment of children suffering from mental illnesses or emotional disturbances. The executive director of the facility must have, at a minimum, a bachelor's degree in a behavioral science or a bachelor's degree in any field and two years of experience in administration;
3. The staff employed by the facility is supervised by the program director and qualified by training and experience to provide services to children suffering from mental illnesses or emotional disturbances. The facility annually must provide training to staff which is relevant to the needs of the client population;
4. The health, safety, and well-being of the children cared for and treated in the facility will be properly safeguarded;
5. There are sufficient treatment, educational, recreational and leisure, and physical facilities and services available to the children in the facility;
6. The facility will provide for a medical and psychological examination of each child within seventy-two hours of admission and thereafter as needed by the child;
7. An interdisciplinary team will review each individual treatment plan at least monthly and update or amend the plan to meet the needs of the child;
8. The facility develops postdischarge plans and coordinates facility services and related community services with partial discharge plans with each child's family, school, and community upon discharge to ensure continuity of care; and
9. The facility is in compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and title 42, Code of Federal Regulations, part 441, and with this chapter and rules adopted under this chapter;
10. The facility has sought and obtained a criminal history record when required by this chapter; and
11. In accordance with rules of the department, the department has determined whether a license may be issued to a facility that has a facility operator or any individual employed by the facility, contracted service provider of the facility, or nonemployee of the facility, having contact with any child cared for by the facility who has a criminal record.

**SECTION 3. AMENDMENT.** Section 25-03.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.2-04. Conviction not bar to licensure - Exceptions.**

Conviction of an offense by an owner or operator of a facility does not disqualify the center/psychiatric residential treatment facility for children from licensure unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a psychiatric residential

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

**SECTION 4.** A new section to chapter 25-03.2 of the North Dakota Century Code is created and enacted as follows:

**Criminal history record investigation - Fingerprinting required.**

1. Each psychiatric residential treatment facility for children shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from a facility operator, and any individual employed by the facility, contracted service provider of the facility, and nonemployee of the facility, having contact with any child cared for by the facility.
2. The facility shall assure information obtained under subsection 1 is provided to the department.
3. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of the state criminal history record information response received from the bureau of criminal investigation to the facility or authorized agent making the request.
4. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department. The bureau of criminal investigation also shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
5. Upon request by the operators of a facility or employees of a facility, a law enforcement agency shall take fingerprints of individuals described in this section if the request is made for purposes of this section.
6. The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check for each psychiatric residential treatment facility for children.
7. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.
8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-06-01.9, 50-11-06.8, 50-11.3-01, and 50-12-03.2 and section 6 of this Act. The federal bureau of investigation's criminal history record investigation obtained from one criminal history record investigation purpose may not be reused to satisfy the requirements for another federal bureau of investigation's criminal history record investigation for a different purpose.

**SECTION 5. AMENDMENT.** Section 50-06-01.9 of the North Dakota Century Code is amended and reenacted as follows:

### **50-06-01.9. Criminal history record checks.**

In accordance with section 12-60-24, the department may require criminal history record checks as the department determines appropriate for:

1. Job applicants of the department and employees of the department ~~upon hiring~~ part of contingent offer of employment;
2. Job applicants of the human service zone, current employees of the human service zone and department, and the department's and human service zones' contractors and contractors' subcontractors' job applicants and current employees that may have access to federal tax information received from the United States internal revenue service through a computer match and stored in the department's eligibility system;
3. A criminal history record check conducted under subsections 1 and 2 is valid for ~~ten~~ five years, after which the department shall require another criminal history record check on employees of the department, human service zones, and the department's and human service zones' contractors and contractors' subcontractors that may have access to federal tax information received from the United States internal revenue service through a computer match and stored in the department's eligibility system;
4. The department's and human service zones' contractors and contractors' subcontractors job applicants and current employees of contractors and contractors' subcontractors that may have access to social security administration information received from the United States social security administration stored in the department's eligibility system;
5. Providers licensed by the department under chapter 50-12, as well as for any employees, volunteers, or students for field placement of those providers who have direct contact with families, with children, or both;
- ~~5-6.~~ Providers holding, applicants for, and emergency designees and staff members of providers holding and applicants for early childhood services licensure, self-declaration, or in-home provider registration under chapter 50-11.1. The department also may require criminal history record checks for household members of a residence out of which early childhood services within the provider's home are provided; ~~and~~
- ~~6-7.~~ Medicaid services applicant providers, Medicaid services providers, or an individual with a five percent or more direct or indirect ownership interest in the applicant provider or provider under chapter 50-24.1;
8. An operator of a facility licensed by the department under chapter 25-03.2, as well as any individual employed by the facility, contracted service provider of the facility, and nonemployee of the facility, having contact with any child cared for by the facility; and
9. Providers, applicants for, and employees of a shelter care program certified by the department under chapter 50-06.

**SECTION 6.** A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

#### **Shelter care criminal history record investigation - Fingerprinting required.**



1. Each shelter care program shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from any individual employed by the shelter care program.
2. The shelter care program shall assure information obtained under subsection 1 is provided to the department.
3. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of the state criminal history record information response received from the bureau of criminal investigation to the shelter care program or authorized agent making the request.
4. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department. The bureau of criminal investigation also shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
5. Upon request by the provider or employees of a provider, a law enforcement agency shall take fingerprints of individuals described in this section if the request is made for purposes of this section.
6. The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check for each shelter care provider.
7. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.
8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-06-01.9, 50-11-06.8, 50-11.3-01, and 50-12-03.2 and section 2 of this Act. The federal bureau of investigation's criminal history record investigation obtained from one criminal history record investigation purpose may not be reused to satisfy the requirements for another federal bureau of investigation's criminal history record investigation for a different purpose.
9. Before certifying a shelter care program and during the shelter care program operation, the department shall seek a criminal history record when required by this section. The department, in accordance with the rules of the department, shall consider any criminal history information available at the time a decision is made for certification and during the operation of the certified shelter care program.
10. "Shelter care program" means a nonsecure permanent dwelling run by an agency with certification obtained by the department, where employees offer safe shelter, food, and structured routine and is available twenty-four hours a day to a resident age ten to eighteen years old in need of temporary safe out-of-home emergency placement, not to exceed seven days, unless otherwise approved by the department.

**SECTION 7. AMENDMENT.** Section 50-11-06.8 of the North Dakota Century Code is amended and reenacted as follows:

**50-11-06.8. Criminal history record investigation - Fingerprinting required.**

1. Each facility providing foster care for children shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
  - a. Any individual employed by, or providing care in, the facility; and
  - b. Any adult living in the facility, but not being provided care in the facility.
2. Each identified relative, at the request by the department, shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from the identified relative and any adult living in the home of the identified relative.
3. Each certified family foster home for children provider, at the request of the department, shall secure from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from the certified family foster home for children provider and any adult living in the home of the certified family foster home for children provider.
4. The facility, certified family foster home for children provider, or identified relative shall assure that information obtained under subsections 1 ~~and~~, 2, ~~and~~ 3 is provided to the department.
- 4-5. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of the state criminal history record information response received from the bureau of criminal investigation to the facility, certified family foster home for children provider, identified relative, public agency, or authorized agent making the request.
- 5-6. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department. The bureau of criminal investigation also shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
- 6-7. Upon request by the operators of a facility, employees of a facility, certified family foster home for children provider, or identified relative, a law enforcement agency shall take fingerprints of individuals described in this section if the request is made for purposes of this section.
- 7-8. The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide

background check for each facility providing foster care for children, certified family foster home for children provider, and identified relative.

- 8-9. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.
- 9-10. Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall secure from a law enforcement agency or any other agency authorized to take fingerprints two sets of fingerprints and all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
- a. Any individual employed by, or providing care in, an adult family foster care facility; and
  - b. Any adult living in an adult family foster care facility, but not being provided care in the facility.
- 40-11. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-06-01.9, 50-11.3-01, and 50-12-03.2 and sections 2 and 6 of this Act. The federal bureau of investigation's criminal history record investigation obtained from one criminal history record investigation purpose may not be reused to satisfy the requirements for another federal bureau of investigation's criminal history record investigation for a different purpose.

**SECTION 8. AMENDMENT.** Section 50-12-03 of the North Dakota Century Code is amended and reenacted as follows:

**50-12-03. Requirements for licensure and employment - Term - Moral or religious conviction not bar to licensure or employment.**

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

**SECTION 9. AMENDMENT.** Section 50-25.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-11.1. Children's advocacy centers - Confidentiality of records - Criminal history record checks.**

1. Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, or therapy are confidential and may be released only to a person other than a law enforcement agency, the department or the department's authorized agent, or a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.
2. The department may submit a request for a criminal history record check under section 12-60-24 on a board member, an employee, a final applicant for employment, of a children's advocacy center, a contractor, ~~multidisciplinary team member~~, or volunteer of a children's advocacy center who has contact with a child at or through a children's advocacy center.
3. As used in this section, "board member" means an individual serving on the board of a children's advocacy center.

Approved April 13, 2023

Filed April 14, 2023