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Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1119

Introduced by

Human Services Committee

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

A BILL for an Act to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to early childhood services training and certification requirements; to amend and reenact sections 50-11.1-02, 50-11.1-02.1, 50-11.1-03, and 50-11.1-04, subsection 1 of section 50-11.1-07.2, sections 50-11.1-11, 50-11.1-11.1, and 50-11.1-17, subsection 3 of section 50-11.1-18, and sections 50-11.1-23 and 50-33-08 of the North Dakota Century Code, relating to early childhood services and child care assistance; to repeal sections 50-11.1-02.3 and 50-11.1-02.4 of the North Dakota Century Code, relating to training requirements for early childhood services staff; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Applicant" means the person applying for a license to operate early childhood services as an owner of an early childhood program, self-declaration, or registered in-home provider.
2. "Child care" means the care, supervision, education, or guidance of a child that is not provided by a parent, legal guardian, or legal custodian.
3. "Child care center" means an early childhood program licensed to provide early childhood services ~~to nineteen or more~~for children from birth through age twelve, following appropriate ratios according to the square footage of the center and the ages of children being served.

~~3.~~4. "Department" means the department of health and human services.

~~4.~~5. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.

~~5.~~6. "Early childhood program" means any program licensed, registered, or recognized under this chapter where early childhood services are provided for at least ~~two~~three hours a day for three or more days a week.

~~6.~~7. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:

a. Substitute parental child care provided pursuant to chapter 50-11.

b. Child care provided in any educational facility, whether public or private, in grade one or above.

c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.

d. Child care~~, preschool,~~ and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the department.

e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.

f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.

g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.

h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.

i. Head start and early head start programs that are federally funded and meet federal head start performance standards.

j. Child care provided in a medical facility by medical personnel to children who are ill.

k. A child care program certified by and in good standing with the United States department of defense family child care certification program, in accordance with department of defense instruction 6060.02, child development programs.

~~7.~~8. "Family child care" means an early childhood program operated in a private residence licensed to provide early childhood services for no more than ~~seven~~twelve children at any one time~~, except that the term includes a residence licensed to provide early childhood services to two additional school-age children~~.

~~8.~~9. "Four-year old program" means an approved ~~child care~~early childhood program operated by a public or private educational entity designed to serve children in the year before kindergarten.

~~9. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.~~

10. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.

11. "In-home provider" means any person who provides early childhood services to ~~children~~a child in the ~~children's~~child's home when the child has a health condition or disability that would make it not feasible for the child to receive services outside the child's home due to the unique medical or behavioral health needs of the child.

12. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.

13. "Licensee" means the person to which a license has been issued under this chapter.

14. ~~"Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.~~

~~15.~~ "Operator" means the person that has operational responsibility for the early childhood program and premises at which the early childhood service operates.

~~16.~~15. "Owner" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service operates.

~~17.~~16. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.

~~18.~~17. "Premises" means the indoor and outdoor areas approved for providing early childhood services.

~~19.~~18. "Preschool designation" means a program licensed to offer early childhood services~~,~~ which employs highly credentialed staff and follows a preschool curriculum ~~and~~or course of study designed primarily to enhance the educational development of the children enrolled ~~and which serves no child for more than three hours per day~~, as defined and verified by the department.

~~20.~~19. "Provider" means an early childhood program, self-declaration, or registered in-home provider.

~~21.~~20. "~~Public approval~~Recognized" means a nonlicensed early childhood program ~~operated by a government entity that~~ , exempted by subdivision b, c, d, i, j, or k of subsection 7, which has self-certified that the program complies with this chapter.

~~22.~~21. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.

~~23.~~22. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.

~~24.~~23. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.

~~25. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for children aged at least five years through eleven years.~~

~~26. "School-age children" means children aged at least five years but less than twelve years of age.~~

~~27.~~24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.

~~28.~~25. "Staff member" means an individual:

a. Who is an employee or operator of an early childhood provider;

b. Whose activities involve the care, supervision, or guidance of children of an early childhood provider; or

c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood provider.

SECTION 2. AMENDMENT. Section 50-11.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02.1. Number of children in program - How determined.

1. Except as provided under subsection 2, for the purpose of determining the number of children receiving early childhood services, all children present on the premises and ~~under~~through the age of twelve years must be counted for ~~an in-home,~~ a self-declaration, family child care, ~~group child care,~~and child care center~~, and preschool~~.
2. ~~An in-home, self-declaration,~~A self-declaration, family child care~~, and group child care~~ provider's own child, foster child, or grandchild over the age of eleven are exempt for the purpose of determining the number of children receiving early childhood services under this section.
3. ~~For the purpose of determining the number of children receiving early childhood services, all children present on the premises aged at least five years through age eleven must be counted for school-age child care.~~
4. ~~4.~~ All children present are protected by this chapter regardless of whether money is received or goods or other services are received for their care.
4. Notwithstanding the provisions in chapter 11-33, 40-47, or 58-03, or any other provisions authorizing any political subdivision to establish or enforce zoning regulations, a licensed early childhood program serving thirty or fewer children must be considered a permitted use in any area zoned for residential use.

SECTION 3. AMENDMENT. Section 50-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-03. Operation of early childhood services program - License required - Fees.

1. A license for family child care is required if early childhood services are provided for four or more children ages twenty-four months and under, or ~~six or seven~~twelve

children through age ~~eleven~~twelve at any one time which includes no more than three children under twenty-four months of age.

2. ~~A license for group child care is required if early childhood services are provided for at least eight and no more than thirty children at any one time.~~

~~3.~~ A license for a child care center is required if early childhood services are provided for more than ~~thirty~~twelve children at any one time.

~~4.~~3. Except as provided under subsection ~~5~~4, a person may not establish or operate a ~~family child care, group child care, preschool, school-age child care, or~~ child care center unless licensed to do so by the department.

~~5.~~4. A governmental organization may not establish or operate a ~~family child care, group child care, preschool, school-age child care, or~~ child care center without first ~~receiving public approval~~being recognized by certifying, to the department, that it has complied with all rules applicable to ~~family child care, group child care, preschool, or school-age child care, or to~~ child care centers, according to the number and age of children being served.

~~6.~~5. A license is not required for onsite child care services located in the actual building in which the child's parent is employed, not to exceed ten children per location.

~~7.~~6. An applicant for a license shall submit the following nonrefundable fees with the application:

a. The owner of a family child care applying for a license shall pay an annual license fee of twenty dollars ~~or if the license is issued for a two-year period, a fee of thirty-five dollars~~.

b. ~~The owner of a group child care applying for a license shall pay an annual license fee of twenty-five dollars or if the license is issued for a two-year period, a fee of forty-five dollars.~~

~~c.~~ ~~The owner of a preschool applying for a license shall pay an annual license fee of thirty dollars or if the license is issued for a two-year period, a fee of fifty-five dollars.~~

~~d.~~ The owner of a child care center applying for a license shall pay an annual license fee of forty dollars ~~or if the license is issued for a two-year period, a fee of seventy-five dollars~~.

~~e. The owner of a multiple licensed program applying for a license shall pay an annual license fee of fifty dollars or if the license is issued for a two-year period, a fee of ninety-five dollars.~~

~~8.~~7. An applicant for a license who currently holds a license or self-declaration shall submit the nonrefundable fees set forth in subsection ~~7~~6 with the application at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before the expiration date of the applicant's current license or self-declaration, the applicant shall submit with the application two times the nonrefundable fees set forth in subsection ~~7~~6.

~~9.~~8. In addition to any criminal sanctions or other civil penalties that may be imposed pursuant to law, the owner of an early childhood program who, after being given written notice by the department, continues to provide early childhood services without a license as required by this section is subject to a civil penalty of fifty dollars per day for each day of operation without the required license. The civil penalty may be imposed by the courts or by the department through an administrative hearing pursuant to chapter 28-32.

~~10.~~9. All fees collected under subsections ~~7~~6 and ~~8~~7 must be paid to the department and must be used to defray the cost, to the department, of investigating, inspecting, and evaluating the applications or to provide training to providers.

~~11. Any hours of department-approved training related to child care which an applicant completes after submitting the fees and application as required under subsection 8 must be counted toward the licensing annual requirements for the following year.~~

SECTION 4. AMENDMENT. Section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-04. Application for license - Prerequisites for issuance - License granted - Term.

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a

license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a confirmed decision for child abuse or neglect. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing:

a. ~~The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and are maintained according to rules adopted by the department;~~

~~b.~~ ~~Staff members are qualified to fulfill the duties required of the staff members according to the provisions of this chapter and standards prescribed for staff member qualifications by~~Compliance with this chapter and the rules of the department;

~~c.~~b. The application and supporting documents do not include any fraudulent or untrue representations;

~~d.~~c. Neither the applicant nor anyone who is listed on the application has had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the owner, operator, or applicant;

~~e.~~d. Neither the applicant nor anyone who is listed on the application has had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within the three years immediately preceding the application date; and

~~f.~~e. The applicant paid its license fees and any penalties and sanctions previously assessed against the applicant or any program the applicant is associated with as required by sections 50-11.1-03 and 50-11.1-07.4~~; and~~

~~g. Staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and are currently certified in first aid by a program approved by the department~~.

2. The license issued to an early childhood program may not be effective for longer than ~~two years~~one year.

3. The department may consider the applicant's past licensing, self-declaration, and registration history in determining whether to issue a license.

4. The department may issue a provisional or restricted license in accordance with the rules of the department. The department shall consider issuing a provisional or restricted license before revoking a license. The department may require the applicant or licensee to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted license. The department shall approve the provisional license if the department approves the compliance plan. The department may revoke a license if the licensee fails to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.

5. The department shall notify the licensee and operator that the licensee and operator are required to post a notice of late application at the early childhood program premises if the department has not received a completed application and all supporting documents for licensure ~~or self-declaration~~ renewal at least thirty days before the expiration date of the early childhood program's license.

SECTION 5. AMENDMENT. Subsection 1 of section 50-11.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

1. If the department finds, upon inspection, the program, self-declaration, or premises is not in compliance with this chapter or the rules adopted under this chapter, the department may issue a correction order to the licensee or holder of a self-declaration, provided the department does not revoke the license or self-declaration as a result of

the noncompliance. The correction order must cite the specific statute or rule violated, state the factual basis of the violation, state the suggested method of correction, and specify the time allowed for correction. The correction order must also specify the amount of any fiscal sanction to be assessed if the licensee or holder of a self-declaration fails to comply with the correction order in a timely fashion. This section does not apply to an applicant's failure to comply with subsection ~~8~~7 of section 50-11.1-03 or subdivision c of subsection 1 of section 50-11.1-16.

SECTION 6. AMENDMENT. Section 50-11.1-11 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-11. Public agency purchase of early childhood services.

No agency of state or local government may purchase early childhood services, including care provided by or in the home of a relative, unless the early childhood program is licensed, registered, recognized or approved by the department.

SECTION 7. AMENDMENT. Section 50-11.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-11.1. ~~Resource and referral services -~~ Authority of department to make grants - Federal funds - Components.

1. The department may make grants to public and private nonprofit entities for the planning, establishment, expansion, improvement, or operation of early childhood services. Public or private nonprofit entities may apply to the department for funding. Applicants shall apply for grants on forms provided by the department. Applications for grants using funds received by the state under subsection 2 must include assurances that federal requirements have been met.
2. The department shall submit an application annually to the United States secretary of health and human services for the purpose of obtaining the state's allotment of funds authorized under chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. 9871-9877] or under any subsequent federal law providing funding for child care and development programs.
3. ~~Each public or private nonprofit entity or the department providing early childhood resource and referral services shall identify all existing related early childhood services through information provided by all relevant public and private nonprofit entities in the~~

~~areas of service and must develop a resource file of these services which must be maintained and updated at least quarterly. The services must include early childhood services as identified in section 50-11.1-02.~~

~~4. Each public or private nonprofit entity or the department providing early childhood resource and referral services shall establish a referral process that responds to parental needs for information, fully ensures the confidentiality of records and information as required under subsection 4 of section 50-11.1-07, affords parents maximum access to all referral information, and includes telephone referral available for no less than twenty hours per week and access via the internet. Each public or private nonprofit entity or the department shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.~~

~~5. All early childhood services resource and referral public and private nonprofit entities or the department shall maintain documentation of the number of calls and contacts received and information required or requested by the department.~~

~~6. Each early childhood services resource and referral public or private nonprofit entity or the department shall have available, as an educational aid to parents, information on available parent, early childhood, and family education programs in the community and information on aspects of evaluating the quality and suitability of early childhood services, including licensing regulation, financial assistance availability, child abuse reporting procedures, and appropriate child development information.~~

~~7. A child care resource and referral public or private nonprofit entity or the department shall provide technical assistance to existing and potential providers of all types of early childhood services and to employers.~~

~~8. Services prescribed by this section must be designed to maximize parental choice in the selection of early childhood services and to facilitate the maintenance and development of such services and resources.~~

SECTION 8. AMENDMENT. Section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval - Term.

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a confirmed decision for child abuse or neglect. Except as otherwise provided, the department shall approve a self-declaration within thirty days of receipt of a completed application and all supporting documents by the department and upon the applicant's declaration:
   a. ~~The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and are maintained according to the standards prescribed by the rules of the department;~~
   ~~b.~~ The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and ~~standards prescribed by the department as set forth in~~ the rules of the department;
   b. The applicant's compliance with this chapter and the rules of the department;
   c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;
   d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within five years of the application date;
   e. The applicant has paid the required application fees;
   f. The applicant has paid any penalties and sanctions assessed against the holder of a self-declaration required by sections 50-11.1-03 and 50-11.1-07.4; and
   g. ~~The applicant is currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary~~

~~resuscitation and automated external defibrillator training program approved by the department;~~

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

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

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

2. The department may consider the early childhood services history of the applicant in determining issuance of a self-declaration document.

3. The department may issue a provisional self-declaration document in accordance with the rules of the department. The department shall consider issuing a provisional or restricted self-declaration document before revoking a self-declaration document. The department may require the holder of a self-declaration to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted self-declaration document. The department shall approve the provisional self-declaration document if the department approves the compliance plan. The department may revoke a self-declaration document if the holder of a self-declaration fails to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.

4. The department shall notify the holder of a self-declaration that the holder of a self-declaration is required to post a notice of late application at the self-declaration premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of a self-declaration.

SECTION 9. AMENDMENT. Subsection 3 of section 50-11.1-18 of the North Dakota Century Code is amended and reenacted as follows:

3. To be eligible for the early childhood inclusion support services program, the provider must:
   a. Be a self-declared, licensed, registered, or recognized early childhood program ~~or self-declared~~;
   b. Collaborate with service providers that provide formal supports to the child or children with disabilities, special needs, or developmental delays; and
   c. Work with the child's family and an inclusion or health specialist to complete a care plan appropriate for the child care setting.

SECTION 10. AMENDMENT. Section 50-11.1-23 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-23. Eligibility for best in class program.

1. An approved four-year old program, federally funded head start program, or early childhood program may submit, in the form and manner prescribed by the department, an application to the department under section 50-11.1-22, if the provider certifies to the department the provider:
   a. Operates an approved four-year old program, federally funded head start program, or early childhood program in this state;
   b. Operates a ~~program for~~classroom exclusively serving children who have reached the age of four years ~~of age~~old before August first in the year of enrollment;
   c. Operates a program that has a duration of at least four hundred hours over a period of at least thirty-two consecutive weeks;
   d. Incorporates within the program at least ten hours of research-based family engagement;
   e. Has been determined to meet the standards and expectations of no less than step three in the North Dakota early childhood quality improvement system; has met the standards and expectations of a nationally recognized early childhood accrediting entity; has met the federal performance standards for head start; or has obtained approval or certification from the department ~~of public instruction~~;
   f. Admits children of all learning abilities;
   g. Admits children who receive assistance from the child care assistance program; and

h. Operates in compliance with the program requirements, including:

(1) Complying with requirements related to qualifications, training, and professional development of staff delivering services in the best in class program; and

(2) Adhering to expectations established by the department related to best in class program monitoring, operation, and oversight.

2. The department may distribute funds under this section to approved applicants.

3. The department may recapture funds from an awarded program that is found by the department to be out of compliance with requirements established for the best in class program.

4. The requirements of chapter 54-44.4 do not apply to the selection of a recipient, award, or payments made under this section.

SECTION 11. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Training and certification requirements.

1. The department shall establish by rule, training and certification requirements for applicants, providers, staff members, and emergency designees.

2. The department approved training and certification requirements must include safe sleep, mandated reporter of suspected child abuse or neglect, infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator, and first aid.

3. The department may deny or revoke a license, self-declaration, or registration document, issue a provisional license or self-declaration document, issue a correction order, or apply fiscal sanctions if the applicant, provider, staff member, or emergency designee fails to comply with the training and certification requirements.

4. Unless otherwise provided by rule, the department shall allow an applicant, provider, staff member, and emergency designee twelve months to comply with the annual training and certification requirements.

SECTION 12. AMENDMENT. Section 50-33-08 of the North Dakota Century Code is amended and reenacted as follows:

50-33-08. Limitations on in-home child care benefits.

~~No benefits~~A benefit under this chapter may not be provided to an in-home provider or for a child receiving in-home child care unless~~:~~

~~1.~~ ~~A~~ a health professional provides written documentation demonstrating to the department's satisfaction ~~that~~ the child's health condition or disability would ~~be at risk if taken to an~~make it not feasible for the child to receive services outside ~~provider; or~~

~~2. A developmental disabilities case manager or a special education case manager provides written documentation demonstrating to the department's satisfaction that the child's disability is such that taking the child to an outside provider creates an undue hardship~~the child's home due to the unique medical or behavioral health needs of the child.

SECTION 13. REPEAL. Sections 50-11.1-02.3 and 50-11.1-02.4 of the North Dakota Century Code are repealed.

SECTION 14. EFFECTIVE DATE. This Act becomes effective on April 1, 2026.