

**2021 HOUSE HUMAN SERVICES**

**HB 1347**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1347  
1/27/2021

Relating to registration of in home providers of early childhood services; and to provide for application.

**Chairman Weisz** opened the hearing at 9:03 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

### Discussion Topics:

- In-home provider
- Application fee
- Background check
- In-home inspection

**Rep. Glenn Bosch, District 30 (9:03)** introduced the bill, testified in favor, and submitted testimony #3740.

**Samantha Ballesteros Benson, Burleigh County (9:27)** testified in favor and submitted testimony #3762.

**Sarah VanCleave, Burleigh County (9:35)** testified in favor and submitted testimony #3764.

**Katrina Hanenberg, Burleigh County (9:39)** testified in favor and submitted testimony #3547.

**Michelle Roeszler, Fargo (9:45)** testified in opposition and submitted testimony #3721.

**Cory Pederson, Director Children & Family Services North Dakota Department Human Services (9:49)** answered fiscal note questions.

**Jonathon Alm, Legal Advisory North Dakota Human Services (9:57)** answered questions.

**Additional written testimony: #3660**

**Chairman Weisz** adjourned at 10:10 a.m.

*Tamara Krause, Committee Clerk*

Chairman Weisz and House Human Service Committee, for the record I'm Glenn Bosch, representing District 30 Bismarck.

I'm here today to introduce House Bill 1347.

Over the last two years I've had the opportunity to visit with families who shared with me situations in which their children were neglected or injured while at a daycare provider. In each of the situations the provider was un-licensed, and I've since learned about the ways in which our current un-licensed structure can in many cases make an already difficult situation more challenging.

The bill before looks to make a change to the daycare licensing structure that's positive for both the providers and families. HB1347 adds registered to the list of daycare licenses issued by Children and Family services. It also removes the un-licensed option.

Under the new registered option applicants would be required a pay \$15 application fee and be subject to a background check. An in-home inspection would not be required to receive an approved registration, but DHS would have the authority to investigate filed complaints.

This bill provides a framework for insuring appropriate protections for parents and children, and the opportunity for improved training and support for daycare providers without over burdensome regulation.



**Written Testimony of Samantha Ballesteros Benson  
before the Human Services House Committee  
in support of HB 1347  
January 27, 2021**

Good Morning Mr. Chair and representatives. My name is Samantha Ballesteros Benson and I live in Burleigh County with my husband and two small children. I am here before the Human Services House Committee today to pledge my full support for House Bill 1347.

On March 25<sup>th</sup>, 2019, one of our worst nightmares came to fruition. My husband picked up our then 1 ½ year old daughter from her unlicensed daycare provider. The provider immediately informed my husband that a toy had fallen on top of my daughter and that she sustained some slight bruising on her head. Unable to observe the full extent of our daughter's injuries due to poor lighting in the basement, it wasn't until he took her outside that he was finally able to see the severity of my daughter's injuries. The extensive bruising ran the entire length of her temple, from one side of her head to the other. Additionally, she had significant bruising on the top and inside of her ear to include an infant earring missing from her ear; which is significant because the particular type of earrings she was wearing lock into place and require concentrated force to remove them. A task that an infant child would not be capable of. She also sustained a small laceration on her cheek.

Concerned for our daughter's wellbeing, we immediately took her to the emergency room of a Bismarck area hospital. Following required reporter protocols already in place, the physician contacted the Bismarck Police Department and an officer was dispatched to us in order to file a report. Fearing further injuries, the physician immediately ordered x-rays for our daughter. Thankfully, she did not sustain any internal injuries. Given the severity and extent of our daughter's injuries, both the attending physician and police officer agreed that our daughter's injuries were inconsistent with a toy falling on her. Upon their recommendation, a report was filed with Social Services.

The following day, we met with a detective with the Bismarck Police Department who was assigned to our case. Although the detective agreed that my daughter's injuries were inconsistent with our provider's story, she informed us that because the provider was unlicensed; she was not legally required to cooperate with Social Services. The detective obtained a search warrant and told me she was going to coordinate with Social Services for a day and time to execute the search warrant and interview our provider. The detective thought we would have a better chance of cooperation between our provider and Social Services if authorities were present.

An entire month later, the search warrant was finally executed. The toy that allegedly fell on top of my daughter had conveniently been "thrown out" by our provider. She showed the detective a picture of this toy instead. In the absence of any evidence, our case was eventually closed by the Bismarck Police Department. During that time, our former provider continued to operate her unlicensed daycare and has since faced absolutely no consequences or repercussions from her actions.

Several months later, I received a message from another mother who took her son to the exact same daycare provider. She described similar bruising on her son and also filed a report with Social Services. Once again, the case was closed and the unlicensed provider continued to operate without any oversight. To the best of my knowledge, our provider no longer offers daycare services, however, she can still choose to re-open and operate as normal at any time. The thought that this could happen to another innocent child terrifies me beyond belief.

Mr. Chair and representatives, I am here today to implore you to look deep within your hearts and work to pass HB-1347 for the future safety of every child entering a childcare setting. Our local dining establishments must adhere to state and federal regulations and inspections. These laws function as oversight to ensure customer safety and wellbeing. Why then do we continue to allow our most vulnerable and defenseless citizens to go without any protections for their safety and wellbeing? Had our provider been registered with the state, our case may have turned out very differently and we could have possibly even prevented future abuse in that setting. I urge you to strongly consider voting "Yes" on HB-1347 for our children's futures.

Written Testimony of Sarah VanCleave  
before the Human Services House Committee  
in support of HB 1347  
January 27, 2021

Good morning, Mr Chair and representatives my name is Sarah VanCleave. I live in Burleigh county with my husband and two children. I am here in support of house bill 1347.

My sons name is Mylo and he had an awful experience at an unlicensed daycare. Mylo is sweet and kind and smart and funny. And he's a bit of a momma's boy. He was my first child. I didn't know what was normal when it came to day care. I asked for recommendations on a Facebook group, interviewed each person and toured their facilities. I thought I had done due diligence in vetting a good provider. But my son did not want to be left with her each morning. He threw himself at my husband when he was picked up each day. But the daycare provider reported he was doing well. She would send pictures of him playing and looking happy if we asked for photos.

I never felt good about dropping him off. But things got worse, he started coming home with bruises. Often on his face and forehead. He was a one year old learning to walk so falling down wasn't unusual! I would always ask about the bruising. She would always say it didn't happen there she had no clue.

He was in her care for a year. I left my baby there for a year. One day our daycare provider wouldn't answer our phone calls and knocks on the door for over an hour. When she finally opened the door she said she was changing diapers. She gave my husband our son. Our baby was dirty, crying, his diaper was so soiled that it hung away from his body heavily. He begged for water and ate more than my husband that night at dinner. Obviously, Mylo never went back. He has a wonderful new daycare, he runs into her arms each morning. His bruises on his forehead and cheeks healed up. If he falls and get a bump or bruise there is always an explanation. Mylo is happy, safe and loved. But other kids still are not safe.

In trying to get justice for my baby I reported this provider to child social services. In asking for help from moms on line I found out there were other moms that had the same experience with this provider. In fact the police were investigating the provider. There were police officers at my daycare during the time Mylo was enrolled in the daycare. I was never informed. And because I wasn't informed I left Mylo there for another six months. When I had my meeting with social service they acknowledged this provider had several reports against her but nothing was proven so they were not required to inform parents.

Today we are asking you to pass HB-1347 to give parents the safety of knowing the provider is registered and a safe place to leave our children. A fifteen dollar fee, a background check and transparency will likely save a child so much pain and suffering. Please, vote yes on HB-1347.

Sarah VanCleave

**Written Testimony of Katrina and Troy Hanenberg  
before the Human Services House Committee  
in support of HB 1347  
January 27, 2021**

Good morning Mr. Chair and representatives, my name is Katrina Hanenberg and I live in Burleigh County with my husband and two children.

I am here in support of House Bill 1347, as my daughter was a victim of abuse by her “unlicensed” daycare provider. On May 31, 2016, my daughter was airlifted to the Minneapolis Masonic children’s hospital, her diagnosis...subdural hematomas or brain bleeds, a skull fracture and retinal hemorrhaging. As you might expect, we were in disbelief that our daughter had such life-threatening injuries. We had no answers, other than to turn to the one person we entrusted with our child, our daycare provider.

Pleading with her for answers, all her explanations were filled with lies, deception and multiple inconclusive stories blaming other children for incidents she claimed were accidents.

At that point, our daycare provider walked away with a slap on the wrist, unsupervised probation, and a Class A Misdemeanor charge of false information to police. What my husband and I endured was entirely different. Our daughter was removed from us for 6 months. Legal harassment from social services ensued. The medical bills came due and our travel and legal fees fighting for her became insurmountable. Our mental state was the lowest in our lives. Here we were, being wrongly accused of hurting our daughter and put through what one can only describe as “hell” by Burleigh County Social Services.

As our social worker said...I’m sorry, the system is setup to blame the parents. Since it’s inconclusive on what happened to your daughter, and your provider was “unlicensed” there is nothing we can do to her.

Well, they were right, nothing did happen to her. She continued to provide daycare and also provided care for foster children. That is, until, 6 months later, when a 4-year-old in her care was abused. Since this child could talk, the daycare provider’s path was different this time. She was found guilty of child abuse charges and served more jail time for our daughter’s case.

While I am satisfied some justice was served, I’m not at all satisfied with the process of how vulnerable children are entering daycares in which parents aren’t informed and can feel their children are safe.

I want to go back to the word “UNLICENSED”. And I want you to think about these three things that our current law allows with unlicensed daycares.

#1 Under our current state law, anyone with charges of sexual crimes against children or child abuse charges, can open a “UNLICENSED” daycare. Unchecked by the state, unregulated, and if that does not scare you, it should. My daycare provider was just released from prison in September. She can go open a daycare right now too.

#2 If a child is abused in a daycare setting, under this bill, the state can go in and investigate what happened, inform parents, and shut the provider down. This stops further abuse. If this bill were applicable in my case, that second child and their family could have avoided the pain and suffering we did.

#3 With the state being able to register providers, you are providing parents with more comfort and informed decision making in choosing their daycare provider. When I was choosing a provider, I did everything a parent should, check references, look at prior work history and thoroughly check the home, but it was not enough. These are vulnerable children who are not able to defend themselves.

This bill is not intrusive and does not make it difficult to open a daycare. I know the importance of and the need for childcare services in our state. This bill only requires a \$15 application fee and a look into their background to make sure they are a safe provider. My current employer also checks to make sure anyone working with kids in our after-school programs and recreational activities also has a background check, to keep children safe. This is no different. No one can argue that this is not important. I hope you agree.

I want to leave you with the knowledge that after 3 brain surgeries and a multitude of therapy, our daughter is a healthy, happy 5-year-old today. I am grateful for this every day, but we were one of the lucky ones. Please consider passage of HB 1347 to protect our children.

Thank you for your time today.

Katrina Hanenberg



Good morning. My name is Michelle Roeszler. I am currently working as a mother's helper in Fargo but previously have owned and operated a home-based childcare for 15 years. I have operated legally unlicensed, held a family license, held a group license, and held a group non-residential license. I also admin a Facebook group for people working in childcare across the state of North Dakota with just under 400 members.

I am testifying today in opposition of HB 1347. After speaking with Representative Bosch to find out the context behind the introduction of this bill I remain supportive of the philosophy behind this bill but feel that this change in century code will impact childcare negatively in North Dakota for several reasons.

1. The change in definition shifts a voluntary registration for caregivers in the child's home to required. I do not support required registration of caregivers a parent chooses to bring into their homes. This change would require every afterschool babysitter and full-time nanny to register with DHS. While I support parents having information on the background of their caregiver it is the responsibility of the parent to obtain that information. There is no proposal to require background checks for the other countless individuals parents invite into their homes such as housekeepers.
2. By adding caregivers in the provider's home to the definition of in home caregiver and requiring registration the bill proposes to add new regulations to legally unlicensed caregivers in their homes. While I understand the reason for this proposal, I feel that it is the responsibility of parents to become informed about those who they choose for the care of their child. Unlicensed caregivers are an important option for families in our state. They have lower overhead costs thus cost less for parents who live in the gap between affording childcare on their own and qualifying for CCAP (childcare assistance). In some communities legally unlicensed care is the only option available for parents. The reasons for operating legally unlicensed vary but I would guess the majority are not legally unlicensed because they have a criminal history. The alternative to requiring registration of legally unlicensed caregivers is to educate parents on how to ensure the care they choose for their child is qualified by checking court databases and seeking a private background check of the caregiver before enrollment.
3. By requiring registration of legally unlicensed caregivers in their own home we are starting down the path of requiring a license to provide care in their homes. I believe that our state needs to maintain a legally unlicensed option as it fills a need in many communities.
4. In speaking with Representative Bosch he indicated that this bill came out of situations where unlicensed caregivers abused or neglected children in their care. It is unfortunate that adults are willing to harm children but requiring registration of legally unlicensed caregivers in their homes as well as private caregivers in the child's home will only impact a small section of those adults who harm children.
5. I have a concern of how DHS will enforce this further restriction of legally unlicensed care in the state. At the present time when a report to DHS (or their agents in the

human service zones) is made of providers in their homes operating out of compliance with current law they are sent a letter informing them of the complaint and educating them on the laws. The information I have received from citizens about their experiences reporting providers out of compliance is that it does no good. They continue to report those providers and nothing happens. If we don't have effective enforcement of the current regulations how can DHS enforce additional regulations?

6. The fiscal note indicates that this bill will require appropriations over \$500,000 per biennium to process the additional applications and complete background checks. The note does not indicate that these funds would be for enforcement. The fiscal note also indicates a need for funds over \$18,000 to reimburse the Attorney General's office for background checks. That predicts a large number of background checks are anticipated. To me that indicates the potential for a large number of providers operating legally unlicensed at the present and a large number of potential for non-compliance.

In closing, I can understand the reasons this bill was proposed and see how further regulation might seem like the way to prevent abuse and neglect in unlicensed care settings. However I cannot support additional regulation of legally unlicensed caregivers and especially the regulation of private caregivers in the home of the child.

Childcare is a vital service for the workforce of North Dakota. By increasing regulations on legally unlicensed caregivers the unintended consequence will be a reduction in available care options for parents, a sharp increase in non-compliance, a sharp increase in the need for enforcement, and an appropriation of over half a million dollars to process applications and complete background checks. In a time when budgets are stretched thin and will need to stretch more, the cost of this bill outweighs the potential benefit.

**TO: ND House Human Services Committee Members**

**FROM: Earleen Friez - 808 N 3rd St Hettinger, ND 58639 - cell phone 701-567-3102**

**RE: Written Testimony in Opposition to HB 1347 - relating to registration of in-home providers of early childhood services**

I was a licensed child care provider in our Hettinger home for 26 years. After retiring from child care due to health reasons, I served as Office Manager for Hettinger Chamber of Commerce for 16 years. Although now retired, my passion for the child care profession and children in their care continues.

I am opposed to HB 1347 for numerous reasons including:

- Unregulated care is a very important option for parents needing child care especially for single parents, those doing shift work, working evenings or nights, working weekends, working part time, and needing before and after school care and care when school isn't in session. This care is provided by relatives, friends, neighbors, moms of young children who opt to care for a few additional children instead of paying for child care so they can work outside of the home, retired people who love children and wish to supplement their income, students etc.
- I assume that the main purpose of this bill is to be able to prevent some providers who lost their license from continuing to provide care as an unregulated provider of 5 or fewer children as currently provided by ND law. I am concerned also, but reality is that parents have a responsibility in choosing who cares for their children. However sometimes they don't have another option.
- I was actively involved with child care leadership on the state level from 1986 until a couple years ago, including serving on numerous DHS committees. Although there have always been concerns about unregulated child care, North Dakota has always recognized the importance it plays as an option for parents. It is a known fact that in most communities, licensed child care options do not meet the needs for child care.
- I can't imagine how DHS could ever begin to uniformly enforce this registration requirement. It might be easier in smaller communities, but reality is that because of fewer options in rural communities the number of unregulated providers can be higher and absolutely necessary. Please keep in mind that most in-home providers do so for more than 40 hours per week.
- I can't see how this bill could be amended in any way for me to support it. Reality is that teens and college students are an important part of those currently providing unregulated care. Do you really think they would choose to become registered? The same is true of retired people.
- Changing the bill to instead redefine unregulated care in century code from 5 to 3 children and or only children from one family as some other states do, is not an acceptable option either because it would more severely limit parental child care options.
- Reality is that requiring registration for providing unregulated care would absolutely decrease the numbers of those providing such care. Thus unfortunately the only option for some parents for at least part of their working day, especially single parents, would be to leave children too young to adequately and safely care for themselves home alone or possibly with a sibling who might likewise be too young.
- I fear this bill could be a stepping stone for the state eventually requiring everyone providing care of children to be licensed. We need more, not fewer, options for parents seeking care of their children.

Please consider these reasons and vote to "recommend do not pass" for HB 1347. Thank you.



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1347  
2/1/2021

Relating to registration of in-home providers of early childhood services; and to provide for application

**Chairman Weisz** opened the hearing at 4:03 p.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	A
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

### Discussion Topics:

- Required registration
- Unlicensed daycare
- Background check

**Rep. Matthew Ruby (4:04)** presented verbal amendment proposals (stating it is a hoghouse) explaining situations and criteria of a class B misdemeanor and made a motion for Do Pass on the amendments.

**Rep. Mike Beltz (4:06)** second

Voice Vote – Motion carried to adopt **Amendment 21.0203.02002**.

**Rep. Bill Tveit (4:14)** made a motion for a Do Pass As Amended.

**Rep. Matthew Ruby (4:13)** seconded the motion.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y

Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	A
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y
Representative Greg Westlind	Y

**Motion carried – 13-0-1 – Do Pass As Amended**

**Bill Carrier:** Rep. Mary Schneider

**Chairman Weisz** adjourned at 4:14 p.m.

*Tamara Krause, Committee Clerk*

February 1, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1347

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

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

**SECTION 1. AMENDMENT.** Section 50-11.1-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-13.1. Penalty for provision of services - When applicable.**

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:
  - a. Those services are provided after that individual is required to register as a sexual offender;
  - b. The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; ~~or~~
  - c. The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual; or
  - d. The individual has been found guilty of, pled guilty to, or pled no contest to:
    - (1) An offense described under chapters 12.1-16, 12.1-18, 12.1-27.2, or 12.1-41 or sections 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-06, 12.1-17-07.1, 12.2-17-12, 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-21-01, 12.1-22-01, 12.1-22-02, 12.1-29-01, 12.1-29-02, 12.1-31-05, 14-09-22, or 14-09-22.1; or
    - (2) An offense under the laws of another jurisdiction which requires proof of substantially similar elements as the elements required for conviction under any offense identified in paragraph 1.

DD 2/1/21  
202

2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.
3. An individual is not guilty of a class B misdemeanor under subdivision d of subsection 1 in the case of a misdemeanor offense described under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1 or an equivalent offense in another jurisdiction which requires proof of substantially similar elements as required for conviction for offenses under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1347: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1347 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

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

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  - b. The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; ~~or~~
  - c. The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual; or
  - d. The individual has been found guilty of, pled guilty to, or pled no contest to:
    - (1) An offense described under chapters 12.1-16, 12.1-18, 12.1-27.2, or 12.1-41 or sections 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-06, 12.1-17-07.1, 12.2-17-12, 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-21-01, 12.1-22-01, 12.1-22-02, 12.1-29-01, 12.1-29-02, 12.1-31-05, 14-09-22, or 14-09-22.1; or
    - (2) An offense under the laws of another jurisdiction which requires proof of substantially similar elements as the elements required for conviction under any offense identified in paragraph 1.
2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.

3. An individual is not guilty of a class B misdemeanor under subdivision d of subsection 1 in the case of a misdemeanor offense described under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1 or an equivalent offense in another jurisdiction which requires proof of substantially similar elements as required for conviction for offenses under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction."

Renumber accordingly

**2021 SENATE HUMAN SERVICES**

**HB 1347**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Sakakawea Room, State Capitol

HB 1347  
3/3/2021 9:00 AM

A BILL for an Act to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

**Madam Chair Lee** opened the hearing on HB 1347 at 9:00 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

### Discussion Topics:

- Federal benefits
- Penalties
- Unlicensed daycare providers
- Licensed in-home provider's requirements

**[9:03] Representative Glenn Bosch, District 30.** Introduced HB 1347 and provided the committee with proposed amendment 21.0203.03001 (testimony #7214 and #7215).

**[9:12] Samantha Ballesteros Benson, Burleigh County Resident.** Provided testimony #7224 in favor.

**[9:18] Sarah VanCleave, Burleigh County Resident.** Provided testimony #7225 in favor.

**[9:23] Katrina Hanenberg, Burleigh County Resident.** Provided testimony #7132 in favor.

**[9:30] Jonathan Alm, Attorney, Department of Human Services.** Provided testimony #7191 in favor.

**Additional written testimony:** (1)

**Michelle Roeszler, Fargo Resident.** Provided written neutral testimony #7255.

**Madam Chair Lee** closed the hearing on HB 1347 at 9:43 a.m.

*Justin Velez, Committee Clerk*



21.0203.03001

## FIRST ENGROSSMENT

Sixty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1347

Introduced by

Representatives Bosch, J. Nelson

Senators Davison, Lee

1 A BILL for an Act to amend and reenact subsection 11 of section 50-11.1-02 and sections  
 2 50-11.1-06 and 50-11.1-13.1 of the North Dakota Century Code, relating to registration of  
 3 in-home providers of childhood services and a penalty for the provision of early childhood  
 4 services; to provide a penalty; and to provide for application.

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

6 **SECTION 1. AMENDMENT.** Subsection 11 of section 50-11.1-02 of the North Dakota  
 7 Century Code is amended and reenacted as follows:

8 11. "In-home provider" means ~~any~~ a person ~~who~~ that provides early childhood services to  
 9 children in the ~~children's~~ provider's home or business for at least thirty hours per week.  
 10 The term does not include a provider who is related to the child within the third degree  
 11 of consanguinity.

12 **SECTION 2. AMENDMENT.** Section 50-11.1-06 of the North Dakota Century Code is  
 13 amended and reenacted as follows:

14 **50-11.1-06. In-home provider - Registration** ~~voluntary~~ required - ~~Prerequisites for~~  
 15 ~~approval—Issuance of registration document~~ Fees - Term.

16 1. An in-home provider shall hold a registration document, self-declaration, or license  
 17 issued by the department under this chapter. An in-home provider ~~may~~ who does not  
 18 hold a self-declaration or license shall apply for a registration document from the  
 19 department. ~~The~~ An applicant shall apply for a registration document at least sixty days  
 20 and no more than ninety days before the expiration date of the applicant's current  
 21 registration document, self-declaration, or license.

22 2. Within thirty days of timely receipt of a completed application and all support  
 23 documents, the department or the department's authorized agent shall determine  
 24 whether the applicant meets the standards and shall issue or deny a registration



document based upon that determination. A registration document for an in-home provider may not be effective for longer than ~~one year~~ two years. The application and supporting documents may not include any fraudulent or untrue representations. The department may consider the early childhood services history of the applicant in determining issuance of a registration document. The department may investigate an applicant according to rules adopted by the department to determine whether the applicant has a criminal record or has been the subject of a finding of services required for child abuse and neglect. The department may issue a provisional in-home provider registration document in accordance with the rules of the department.

3. An applicant for a registration document shall pay the department a nonrefundable fee of fifteen dollars at the time the application is filed. If the nonrefundable fee and application are submitted less than sixty days before the expiration of the applicant's current registration document, license, or self-declaration, the applicant shall submit with the application two times the regular nonrefundable fee. All fees collected under this section must be paid to the department or the department's authorized agent and the department shall use the fees collected to defray the cost of investigating, inspecting, and evaluating applications for registration documents.

**SECTION 3. AMENDMENT.** Section 50-11.1-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-13.1. Penalty for provision of services - When applicable.**

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:
  - a. Those services are provided after that individual is required to register as a sexual offender;
  - b. The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; or

1 c. The individual allows another individual to be in the presence of the child  
2 receiving early childhood services if that other individual is required to register as  
3 a sexual offender or has had an application for licensure, self-declaration, or  
4 registration to provide early childhood services denied or revoked by the  
5 department following a finding that services are required under chapter 50-25.1  
6 and that finding has become final or has not been contested by that other  
7 individual; or

8 d. The individual has been found guilty of, pled guilty to, or pled no contest to:

9 (1) An offense described under chapters 12.1-16, 12.1-18, 12.1-27.2, or  
10 12.1-41, or sections 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03,  
11 12.1-17-04, 12.1-17-06, 12.1-17-07.1, 12.1-17-12, 12.1-20-03, 12.1-20-03.1,  
12 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-21-01,  
13 12.1-22-01, 12.1-22-02, 12.1-29-01, 12.1-29-02, 12.1-31-05, 14-09-22, or  
14 14-09-22.1; or

15 (2) An offense under the laws of another jurisdiction which requires proof of  
16 substantially similar elements as the elements required for conviction under  
17 any offense identified in paragraph 1.

18 2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of  
19 subsection 1 if the department has made a determination that the individual is able to  
20 provide care that is free of abuse and neglect, in spite of a finding that services are  
21 required under chapter 50-25.1, which has become final or has not been contested.

22 3. An individual is not guilty of a class B misdemeanor under subdivision d of  
23 subsection 1 in the case of a misdemeanor offense described under sections  
24 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, or an equivalent offense in  
25 another jurisdiction which requires proof of substantially similar elements as required  
26 for conviction for offenses under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or  
27 12.1-17-07.1, if five years have elapsed after final discharge or release from any term  
28 of probation, parole, or other form of community corrections or imprisonment, without  
29 subsequent conviction.

30 **SECTION 4. APPLICATION.** Within one year of the effective date of this Act, the  
31 department of human services shall implement section 2 of this Act statewide.



21.0203.03001  
Title.

Prepared by the Legislative Council staff for  
Representative Bosch  
March 2, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 1, line 1, after "reenact" insert "subsection 11 of"

Page 1, line 1, after "section" insert "50-11.1-02 and sections 50-11.1-06 and"

Page 1, line 2, after "to" insert "registration of in-home providers of childhood services and"

Page 1, line 2, after "services" insert "; to provide a penalty; and to provide for application"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 11 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

11. "In-home provider" means any person who provides early childhood services to children in the children's provider's home or business for at least thirty hours per week. The term does not include a provider who is related to the child within the third degree of consanguinity.

**SECTION 2. AMENDMENT.** Section 50-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-06. In-home provider - Registration ~~voluntary~~required - Prerequisites for approval - Issuance of registration document Fees - Term.**

1. An in-home provider shall hold a registration document, self-declaration, or license issued by the department under this chapter. An in-home provider may who does not hold a self-declaration or license shall apply for a registration document from the department. TheAn applicant shall apply for a registration document at least sixty days and no more than ninety days before the expiration date of the applicant's current registration document, self-declaration, or license.
2. Within thirty days of timely receipt of a completed application and all support documents, the department or the department's authorized agent shall determine whether the applicant meets the standards and shall issue or deny a registration document based upon that determination. A registration document for an in-home provider may not be effective for longer than one year two years. The application and supporting documents may not include any fraudulent or untrue representations. The department may consider the early childhood services history of the applicant in determining issuance of a registration document. The department may investigate an applicant according to rules adopted by the department to determine whether the applicant has a criminal record or has been the subject of a finding of services required for child abuse and neglect. The department may issue a provisional in-home provider registration document in accordance with the rules of the department.
3. An applicant for a registration document shall pay the department a nonrefundable fee of fifteen dollars at the time the application is filed. If the nonrefundable fee and application are submitted less than sixty days

before the expiration of the applicant's current registration document, license, or self-declaration, the applicant shall submit with the application two times the regular nonrefundable fee. All fees collected under this section must be paid to the department or the department's authorized agent and the department shall use the fees collected to defray the cost of investigating, inspecting, and evaluating applications for registration documents."

Page 2, after line 21, insert:

**"SECTION 4. APPLICATION.** Within one year of the effective date of this Act, the department of human services shall implement section 2 of this Act statewide."

Renumber accordingly

**Written Testimony of Samantha Ballesteros Benson  
before the Senate Human Services Committee  
in support of HB 1347  
March 3, 2021**

Good Morning Madam Chair and Senators. My name is Samantha Ballesteros Benson and I live in Burleigh County with my husband and two small children. I am here before the Senate Human Services Committee today to pledge my full support for House Bill 1347.

On March 25<sup>th</sup>, 2019, one of our worst nightmares came to fruition. My husband picked up our then 1 ½ year old daughter from her unlicensed daycare provider. The provider immediately informed my husband that a toy had fallen on top of my daughter and that she sustained some slight bruising on her head. Unable to observe the full extent of our daughter's injuries due to poor lighting in the basement, it wasn't until he took her outside that he was finally able to see the severity of my daughter's injuries. The extensive bruising ran the entire length of her temple, from one side of her head to the other. Additionally, she had significant bruising on the top and inside of her ear to include an infant earring missing from her ear; which is significant because the particular type of earrings she was wearing lock into place and require concentrated force to remove them. A task that an infant child would not be capable of. She also sustained a small laceration on her cheek.

Concerned for our daughter's wellbeing, we immediately took her to the emergency room of a Bismarck area hospital. Following required reporter protocols already in place, the physician contacted the Bismarck Police Department and an officer was dispatched to us in order to file a report. Fearing further injuries, the physician immediately ordered x-rays for our daughter. Thankfully, she did not sustain any internal injuries. Given the severity and extent of our daughter's injuries, both the attending physician and police officer agreed that our daughter's injuries were inconsistent with a toy falling on her. Upon their recommendation, a report was filed with Social Services.

The following day, we met with a detective with the Bismarck Police Department who was assigned to our case. Although the detective agreed that my daughter's injuries were inconsistent with our provider's story, she informed us that because the provider was unlicensed; she was not legally required to cooperate with Social Services. The detective obtained a search warrant and told me she was going to coordinate with Social Services for a day and time to execute the search warrant and interview our provider. The detective thought we would have a better chance of cooperation between our provider and Social Services if authorities were present.

An entire month later, the search warrant was finally executed. The toy that allegedly fell on top of my daughter had conveniently been "thrown out" by our provider. She showed the detective a picture of this toy instead. In the absence of any evidence, our case was eventually closed by the Bismarck Police Department. During that time, our former provider continued to operate her unlicensed daycare and has since faced absolutely no consequences or repercussions from her actions.

Several months later, I received a message from another mother who took her son to the exact same daycare provider. She described similar bruising on her son and also filed a report with Social Services. Once again, the case was closed and the unlicensed provider continued to operate without any oversight. To the best of my knowledge, our provider no longer offers daycare services, however, she can still choose to re-open and operate as normal at any time. The thought that this could happen to another innocent child terrifies me beyond belief.



Madam Chair and Senators, I am here today to implore you to look deep within your hearts and work to pass HB-1347 for the future safety of every child entering a childcare setting. Despite the fact that I did my due diligence in seeking a safe and competent childcare provider for my children by searching available public records and social media accounts; my children still ended up in a very toxic environment. This is because our current laws do not adequately address the risk that comes with leaving your child in the care of an unlicensed provider.

Our local dining establishments must adhere to state and federal regulations and inspections. These laws function as oversight to ensure customer safety and wellbeing. Why then do we continue to allow our most vulnerable and defenseless citizens to go without any protections for their safety and wellbeing? Had our provider been registered with the state, our case may have turned out very differently and we could have possibly even prevented future abuse in that setting. I urge you to strongly consider voting "Yes" on HB-1347 for our children's futures.

Written Testimony of Sarah VanCleave  
before the Senate Human Services Committee  
in support of HB 1347

March 3, 2021

Good morning, Madam and sentsors, my name is Sarah VanCleave. I live in Burleigh county with my husband and two children. I am here in support of House Bill 1347.

My sons name is Mylo and he had an awful experience at an unlicensed daycare. Mylo is sweet and kind and smart and funny. And he's a bit of a momma's boy. He was my first child. I didn't know what was normal when it came to day care. I asked for recommendations on a Facebook group, interviewed each person and toured their facilities. I thought I had done due diligence in vetting a good provider. But my son did not want to be left with her each morning. He threw himself at my husband when he was picked up each day. But the daycare provider reported he was doing well. She would send pictures of him playing and looking happy if we asked for photos.

I never felt good about dropping him off. But things got worse, he started coming home with bruises. Often on his face and forehead. He was a one year old learning to walk so falling down wasn't unusual! I would always ask about the bruising. She would always say it didn't happen there she had no clue.

He was in her care for a year. I left my baby there for a year. One day our daycare provider wouldn't answer our phone calls and knocks on the door for over an hour. When she finally opened the door she said she was changing diapers. She gave my husband our son. Our baby was dirty, crying, his diaper was so soiled that it hung away from his body heavily. He begged for water and ate more than my husband that night at dinner. Obviously, Mylo never went back. He has a wonderful new daycare, he runs into her arms each morning. His bruises on his forehead and cheeks healed up. If he falls and get a bump or bruise there is always an explanation. Mylo is happy, safe and loved. But other kids still are not safe.

In trying to get justice for my baby I reported this provider to child social services. In asking for help from moms on line I found out there were other moms that had the same experience with this provider. In fact, the police were investigating the provider. There were police officers at my daycare during the time Mylo was enrolled in the daycare. I was never informed. And because I wasn't informed I left Mylo there for another six months months. When I had my meeting with social service they acknowledged this provider had several reports against her but nothing was proven so they were not required to inform parents.

Today we are asking you to pass HB-1347 to give parents the safety of knowing the provider is registered and a safe place to leave our children. A fifteen dollar fee, a background check and transparency will likely save a child so much pain and suffering. Please, vote yes on HB-1347.

Sarah VanCleave



**Written Testimony of Katrina and Troy Hanenberg  
before the Senate Human Services Committee  
in support of HB 1347  
March 3<sup>rd</sup>, 2021**

Good morning Madam Chair and senators, my name is Katrina Hanenberg and I live in Burleigh County (District 8) with my husband and two children.

I am here in support of House Bill 1347, as my daughter was a victim of abuse by her “unlicensed” daycare provider. On May 31, 2016, my daughter was airlifted to the Minneapolis Masonic children’s hospital, her diagnosis...subdural hematomas or brain bleeds, a skull fracture and retinal hemorrhaging. As you might expect, we were in disbelief that our daughter had such life-threatening injuries. We had no answers, other than to turn to the one person we entrusted with our child, our daycare provider.

Pleading with her for answers, all her explanations were filled with lies, deception and multiple inconclusive stories blaming other children for incidents she claimed were accidents.

At that point, our daycare provider walked away with a slap on the wrist, unsupervised probation, and a Class A Misdemeanor charge of false information to police. What my husband and I endured was entirely different. Our daughter was removed from us for 6 months. Legal harassment from social services ensued. The medical bills came due and our travel and legal fees fighting for her became insurmountable. Our mental state was the lowest in our lives. Here we were, being wrongly accused of hurting our daughter and put through what one can only describe as “hell” by Burleigh County Social Services.

As our social worker said...I’m sorry, the system is setup to blame the parents. Since it’s inconclusive on what happened to your daughter, and your provider was “unlicensed” there is nothing we can do to her.

Well, they were right, nothing did happen to her. She continued to provide daycare and provided care for foster children. That is, until, 6 months later, when a 4-year-old in her care was abused. Since this child could talk, the daycare provider’s path was different this time. She was found guilty of child abuse charges and served more jail time for our daughter’s case.

While I am satisfied some justice was served, I’m not at all satisfied with the process of how vulnerable children are entering daycares in which parents aren’t informed and can feel their children are safe.

I want to go back to the word “UNLICENSED”. And I want you to think about these three things that our current law allows with unlicensed daycares.

#1 Under our current state law, anyone with charges of sexual crimes against children or child abuse charges, can open a “UNLICENSED” daycare. Unchecked by the state, unregulated, and if that does not scare you, it should. My daycare provider was just released from prison in September. She can open another daycare right now too.

#2 If a child is abused in an unlicensed daycare setting; The state cannot go in and investigate what happened, inform parents, and shut the provider down. Stopping further abuse. If this bill, in its original form, were applicable in my case, that second child and their family could have avoided the pain and suffering we did.

#3 Currently the tools available for helping make parents with educated decisions in childcare is almost non-existent. When I was choosing a provider, I did everything a parent should. I used Child Care Aware with no luck. And in finding an unlicensed provider, I checked references, looked at prior work history and thoroughly checked the home, but that was not enough. With this bill, you are providing parents with more resources and informed decision making in choosing their daycare provider.

This bill is not intrusive and does not make it difficult to open a daycare. I know the importance of and the need for childcare services in our state. This bill only requires a \$15 application fee and a look into their background to make sure they are a safe provider. My current employer also checks to make sure anyone working with children in our after-school programs and recreational activities has a background check. A protocol to keep children safe. No one can argue that this is not important. I hope you agree.

I want to clarify that I appreciate the House Human Services committee acknowledging the loopholes in our current law. This is in regard to my prior statement which allows sexual offenders and child abusers access to operating unlicensed daycares. But I also want you to remember, you will never know they are operating without a registration. It solves little but making a threat if they are caught.

I want to leave you with the knowledge that after 3 brain surgeries and a multitude of therapy, our daughter is a healthy, happy 5-year-old today. I am grateful for this every day, but we were one of the lucky ones. Please consider passage of HB 1347 to protect future children.

Thank you for your time today.

Katrina Hanenberg

Testimony  
Engrossed House Bill 1347 - Department of Human Services  
Senate Human Services Committee  
Senator Judy Lee, Chairman  
March 3, 2021

Chairman Lee, and members of the Senate Human Services Committee, I am Jonathan Alm, an attorney with the Department of Human Services (Department). I appear before you in support of Engrossed House Bill No. 1347.

The Department is proposing an amendment to Engrossed House Bill No. 1347 to add additional clarity. The proposed amendment replaces section "12.1-22-02" with "subdivision b of subsection 2 of section 12.1-22-02".

This amendment will ensure that the statutory provisions listed in Engrossed House Bill No. 1347 match the Department's administrative rules regarding early childhood services. The Department's administrative rules prohibit individuals from becoming a staff member or a registered, self-declared, or a licensed provider if the individual was convicted of certain criminal offenses. However, under current state law, an individual with the same conviction could provide non-sanctioned early childhood services without being subject to any penalty. Engrossed House Bill No. 1347 creates a class B misdemeanor if an individual provides non-sanctioned early childhood services when the individual was convicted of certain criminal offenses. If the proposed amendment is not adopted, we could have a situation in which the Department permits employment or grants a registration, self-declaration, or a license to an individual that was convicted of a class C felony for violating section 12.1-22-02 while still allowing the State's Attorney to prosecute the same individual under subdivision d of subsection 1 of section 50-11.1-13.1.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 2, line 2, remove "or"

Page 2, line 5, remove "12.1-22-02,"

Page 2, line 6, after "14-09-22.1" insert ", or subdivision b of subsection 2 of section 12.1-22-02"

Renumber accordingly

Good morning. My name is Michelle Roeszler. I am currently working as a mother's helper in Fargo but previously have owned and operated a home-based childcare for 15 years. I have operated legally unlicensed, held a family license, held a group license, and held a group non-residential license. I also admin a Facebook group for people working in childcare across the state of North Dakota with just under 400 members.

I am testifying today as neutral of HB 1347. I support the philosophy of this bill and in light of the amendments no longer oppose it as I did in the House hearing. There is one additional amendment that I would propose in order to fully support this bill.

In it's current form, HB 1347 caps the limit on providing legally unlicensed care to five years after for a litany of crimes but there is not a similar cap on the limit of providing legally unlicensed care after the revocation of a childcare license following a services needed determination that is final or has been contested.

Essentially, a criminal charge which has due process in a court of law is granted a cap on this limit but a revocation or denial of application due to a services needed determination which is an administrative process is not treated at least equally.

I ask that at a minimum the situations be treated at least equally by adding a cap on the limit to provide legally unlicensed care after five years have passed. In reality, the two situations are not equal. It is possible for a services needed determination to be remediated and the subject to be deem rehabilitated. Thus I feel this needs to be addressed as an amendment in the Senate process.

Thank you for your time and consideration of my testimony. Although I was unable to testify in person or by zoom due to a previous commitment I am available for questions by email or phone at any time.

Michelle Roeszler  
626 University Drive South  
Fargo, ND 58103  
(701) 298-6538  
mroeszler@gmail.com

# 2021 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Sakakawea Room, State Capitol

HB 1347  
3/3/2021 10:46 A.M.

A BILL for an Act to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

**Madam Chair Lee** opened the discussion on HB 1347 at 10:46 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

**Discussion Topics:**

- State attorney's notification
- Rules compliance

**Senator Judy Lee, District 13.** Advised committee; waiting for proposed amendments to be drafted by **Jonathan Alm, Attorney, DHS.**

**Additional written testimony:** N/A

**Madam Chair Lee** closed the discussion on HB 1347 at 10:53 a.m.

*Justin Velez, Committee Clerk*

# 2021 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Sakakawea Room, State Capitol

HB 1347  
3/17/2021

A BILL for an Act to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

**Madam Chair Lee** opened the discussion on HB 1347 at 2:10 p.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

**Discussion Topics:**

- Proposed amendment
- Fiscal impact

**[2:10] Jonathan Alm, Attorney, DHS.** Provided the committee with proposed amendment 21.0202.03001 (testimony #10372).

**Additional written testimony:** N/A

**Madam Chair Lee** closed the discussion on HB 1347 at 2:16 p.m.

*Justin Velez, Committee Clerk*

21.0202.03001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 1, line 17, after the underscored period insert "The department's in-home child care early childhood services administrative rules do not apply to an in-home provider who also holds a self-declaration or early childhood services license."

Page 3, line 10, remove "or"

Page 3, line 13, remove "12.1-22-02,"

Page 3, line 14, after "14-09-22.1" insert ", or subdivision b of subsection 2 of section 12.1-22-02"

Renumber accordingly



# 2021 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Sakakawea Room, State Capitol

HB 1347  
3/24/2021

A BILL for an Act to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

**Madam Chair Lee** opened the discussion on HB 1347 at 9:50 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

### Discussion Topics:

- Proposed amendments
- Fiscal impact
- Unlicensed daycare providers
- Reporting capability of early childhood services

**[9:50] Jonathan Alm, Attorney, DHS.** Provided the committee with an overview of proposed amendment 21.0202.03001 (testimony #7215) and amendments proposed by DHS (testimony #10372).

**[10:09] Jonathan Alm, Attorney, DHS.** Provided the committee with proposed amendment (testimony #10645) of technical changes to HB 1347 in regards to administrative rules and statutory references.

**Senator K. Roers** moves to **ADOPT AMENDMENT 21.0203.03002**  
**Senator Anderson** seconded.

Voice Vote – Motion Passed

**Senator Hogan** moves **DO PASS, AS AMENDED.**  
**Senator Clemens** seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	N

The motion passed 5-1-0

**Senator Clemens** will carry HB 1347.

**Additional written testimony:** N/A

**Madam Chair Lee** closed the discussion on HB 1347 at 10:14 a.m.

*Justin Velez, Committee Clerk*

March 24, 2021

5  
3/24  
1041

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 2, line 1, replace "chapters" with "chapter"

Page 2, line 2, replace ", or sections" with "; section"

Page 2, line 5, remove "12.1-22-02."

Page 2, line 6, after "or" insert "subdivision b of subsection 2 of section 12.1-22-02."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1347, as engrossed: Human Services Committee (Sen. Lee, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1347  
was placed on the Sixth order on the calendar.

Page 2, line 1, replace "chapters" with "chapter"

Page 2, line 2, replace ", or sections" with "; section"

Page 2, line 5, remove "12.1-22-02."

Page 2, line 6, after "or" insert "subdivision b of subsection 2 of section 12.1-22-02."

Renumber accordingly

21.0203.03001  
Title.

Prepared by the Legislative Council staff for  
Representative Bosch  
March 2, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 1, line 1, after "reenact" insert "subsection 11 of"

Page 1, line 1, after "section" insert "50-11.1-02 and sections 50-11.1-06 and"

Page 1, line 2, after "to" insert "registration of in-home providers of childhood services and"

Page 1, line 2, after "services" insert "; to provide a penalty; and to provide for application"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 11 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

11. "In-home provider" means any person who provides early childhood services to children in the children's provider's home or business for at least thirty hours per week. The term does not include a provider who is related to the child within the third degree of consanguinity.

**SECTION 2. AMENDMENT.** Section 50-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-06. In-home provider - Registration ~~voluntary~~required - Prerequisites for approval - Issuance of registration document Fees - Term.**

1. An in-home provider shall hold a registration document, self-declaration, or license issued by the department under this chapter. An in-home provider may who does not hold a self-declaration or license shall apply for a registration document from the department. TheAn applicant shall apply for a registration document at least sixty days and no more than ninety days before the expiration date of the applicant's current registration document, self-declaration, or license.
2. Within thirty days of timely receipt of a completed application and all support documents, the department or the department's authorized agent shall determine whether the applicant meets the standards and shall issue or deny a registration document based upon that determination. A registration document for an in-home provider may not be effective for longer than one year two years. The application and supporting documents may not include any fraudulent or untrue representations. The department may consider the early childhood services history of the applicant in determining issuance of a registration document. The department may investigate an applicant according to rules adopted by the department to determine whether the applicant has a criminal record or has been the subject of a finding of services required for child abuse and neglect. The department may issue a provisional in-home provider registration document in accordance with the rules of the department.
3. An applicant for a registration document shall pay the department a nonrefundable fee of fifteen dollars at the time the application is filed. If the nonrefundable fee and application are submitted less than sixty days

before the expiration of the applicant's current registration document, license, or self-declaration, the applicant shall submit with the application two times the regular nonrefundable fee. All fees collected under this section must be paid to the department or the department's authorized agent and the department shall use the fees collected to defray the cost of investigating, inspecting, and evaluating applications for registration documents."

Page 2, after line 21, insert:

**"SECTION 4. APPLICATION.** Within one year of the effective date of this Act, the department of human services shall implement section 2 of this Act statewide."

Renumber accordingly

21.0202.03001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 1, line 17, after the underscored period insert "The department's in-home child care early childhood services administrative rules do not apply to an in-home provider who also holds a self-declaration or early childhood services license."

Page 3, line 10, remove "or"

Page 3, line 13, remove "12.1-22-02,"

Page 3, line 14, after "14-09-22.1" insert ", or subdivision b of subsection 2 of section 12.1-22-02"

Renumber accordingly

21.0203.03000

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1347

Page 2, line 2, remove "or"

Page 2, line 5, remove "12.1-22-02."

Page 2, line 6, after "14-09-22.1" insert ", or subdivision b of subsection 2 of section 12.1-22-02"

Renumber accordingly