

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2174  
(Senators Heckaman, G. Lee)  
(Representative D. Johnson)

AN ACT to provide for the creation of an autism spectrum disorder task force; to amend and reenact sections 23-09.4-01, 23-09.4-02, 23-09.4-03, 23-09.4-04, 23-09.4-05, 23-09.4-06, and 23-09.4-08 of the North Dakota Century Code, relating to residential care for children with autism spectrum disorder; and to provide an appropriation.

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

**SECTION 1. Autism spectrum disorder task force - Appointment - Duties - Annual reports.**

1. The autism spectrum disorder task force consists of:
  - a. (1) The state health officer, or the officer's designee;  
(2) The director of the department of human services, or the director's designee;  
(3) The director of special education, or the director's designee; and  
(4) The executive director of the protection and advocacy project, or the director's designee; and
  - b. The following members appointed by the governor:
    - (1) A pediatrician with expertise in the area of autism spectrum disorder;
    - (2) A psychologist with expertise in the area of autism spectrum disorder;
    - (3) A college of education faculty member with expertise in the area of autism spectrum disorder;
    - (4) A licensed teacher with expertise in the area of autism spectrum disorder;
    - (5) An occupational therapist;
    - (6) A representative of a health insurance company doing business in this state;
    - (7) A representative of a licensed residential care facility for individuals with autism spectrum disorder;
    - (8) A parent of a child with autism spectrum disorder;
    - (9) A family member of an adult with autism spectrum disorder; and
    - (10) A member of the legislative assembly.
2. The director of the department of human services, or the director's designee, shall serve as the chairman. The task force shall meet at the call of the chairman, at least quarterly.
3. The task force shall examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism

spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.

4. The task force shall develop a state autism spectrum disorder plan and present the plan to the governor and the legislative council before July 1, 2010. Thereafter, the task force shall continue to review and periodically update or otherwise amend the state plan so that it best serves the needs of individuals with autism spectrum disorder. The task force shall provide an annual report to the governor and the legislative council regarding the status of the state autism spectrum disorder plan.

**SECTION 2. AMENDMENT.** Section 23-09.4-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-01. Definitions.** In this chapter unless the context otherwise requires:

1. "Autism spectrum disorder" means a brain disorder that may prevent understanding of what a person sees, hears, or otherwise senses and is conceptualized as a behavioral syndrome with multiple biological manifestations.
2. "~~Autistic-like~~" ~~means exhibiting one or more of the characteristics of autism.~~
3. "Department" means the state department of health.
4. 3. "Residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder" means a living facility providing twenty-four-hour assistance for five or more children not related by blood or marriage to the operator through a multidisciplinary approach including a medical diagnosis of autism ~~or autistic-like characteristics~~ spectrum disorder.
5. 4. "Residential care giver" means an individual who routinely provides assistance with activities of daily living or direct care services in implementing the treatment plan, behavior management, or education to residents in a residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder.

**SECTION 3. AMENDMENT.** Section 23-09.4-02 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-02. Department to establish standards - Licensing - Inspection.** The department shall establish standards for the licensure of residential care facilities for children with autism ~~or autistic-like characteristics~~ spectrum disorder, regularly inspect the facilities, and grant annual licenses to the facilities that meet the established standards. Upon the request of the department, the state fire marshal shall inspect any facility seeking licensure, or any licensed facility, and shall report the inspection results to the department.

**SECTION 4. AMENDMENT.** Section 23-09.4-03 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-03. License required - Term - Revocation.** No person may operate or manage a residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder unless the facility has been licensed by the department. The license must state the name of the owner or manager of the facility, its location, and the maximum number of persons who may reside in the facility at any time. The license is not valid for more than one year. Any license may be revoked by the department for violation of this chapter or the rules adopted by the department.

**SECTION 5. AMENDMENT.** Section 23-09.4-04 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-04. Method of providing service.** A residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder must be specifically designed, arranged, and staffed to provide twenty-four hour assistance with activities of daily living in a homelike environment in response to the individual needs of the residents. A residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder must provide or make arrangements for diagnostic and treatment services, behavioral management, and educational services to enable residents to attain or maintain their highest practicable level of functioning.

**SECTION 6. AMENDMENT.** Section 23-09.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-05. Records.** The owner or manager of a residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder must keep a record of every individual admitted to the facility, in the manner and form prescribed by the department.

**SECTION 7. AMENDMENT.** Section 23-09.4-06 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-06. Violations - Injunction.** The department shall prosecute all violations of this chapter. The department may apply to the district court of the county in which the residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder is located, for a temporary or permanent injunction restraining any person from conducting, managing, or operating a facility without a license as required by this chapter.

**SECTION 8. AMENDMENT.** Section 23-09.4-08 of the North Dakota Century Code is amended and reenacted as follows:

**23-09.4-08. Penalty.**

1. Any person who operates or manages a residential care facility for children with autism ~~or autistic-like characteristics~~ spectrum disorder without first obtaining a license as required by this chapter is guilty of a class B misdemeanor.
2. Any person who violates any provision of this chapter or any rule adopted under this chapter may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues, plus interest and any costs incurred by the department to enforce this penalty. The civil penalty may be imposed by a court in a civil proceeding or by the state health officer through an administrative hearing under chapter 28-32. The assessment of a civil penalty does not preclude the imposition of other sanctions authorized by rules adopted under this chapter.

**SECTION 9. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000, or so much of the sum as may be necessary, to the department of human services for the purpose of paying miscellaneous expenses incurred by the autism spectrum disorder task force, for the biennium beginning July 1, 2009, and ending June 30, 2011.

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President of the Senate

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Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2174.

Senate Vote:    Yeas    45        Nays    0        Absent    2

House Vote:    Yeas    87        Nays    1        Absent    6

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State