

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2085  
(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-11.1-02, 50-11.1-02.2, and 50-11.1-15 of the North Dakota Century Code, relating to definitions used in early childhood services licensing, smoking on early childhood services premises, and the early childhood services advisory board; and to declare an emergency.

**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. "Authorized agent" means the county social service board, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "County agency" means the county social service board in each of the counties of the state.
4. "Department" means the department of human services.
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.
6. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
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 subsection 1 of section 15.1-06-06.
  - 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 superintendent of public instruction.
  - 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.
8. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children ~~during the two hours immediately before and after the schoolday and all day, except Saturday and Sunday, when school is not in session during the official school year.~~
  9. "Group child care" means a child care program licensed to provide early childhood services for eighteen 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 in the children's home.
  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. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
  14. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.
  15. "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.
  16. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
  17. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and 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.
  18. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
  19. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.

20. "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.
21. "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.
22. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
23. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
- ~~23-24.~~ "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to three children below the age of twenty-four months or for no more than five children through the age of eleven.
- ~~24-25.~~ "Staff member" means operator, caregiver, provider, or any other individual, whether paid or volunteer, who provides care, supervision, or guidance to children in an early childhood program or under a self-declaration and includes food preparation, transportation, and maintenance personnel.

**SECTION 2. AMENDMENT.** Section 50-11.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-02.2. Smoking prohibited in certain facilities on premises where early childhood services are provided.**

~~Smoking~~As provided by section 23-12-10, smoking is not permitted in a non the premises where early childhood facility at any time during which a child who receives early childhood services from that facility is present and receiving services at that facility services are provided. For purposes of sections 23-12-09 and 23-12-10, a person providing early childhood services as a registrant or pursuant to a self-declaration is considered a child care facility subject to licensure by the department.

**SECTION 3. AMENDMENT.** Section 50-11.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-15. (Effective through June 30, 2013) Early childhood services advisory board - Membership - Duties.**

1. The early childhood services advisory board is composed of seven members appointed by the director of the department. The members of the board must include a broad-based geographically distributed membership. The term of office is four years expiring on July thirty-first with no more than two terms expiring in any one year. ~~Of the first members appointed, one member must be appointed for a term of one year, two members must be appointed for terms of two years, two members must be appointed for terms of three years, and two members must be appointed for terms of four years.~~ A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as the original appointment, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. A member also is entitled to be reimbursed up to one hundred dollars per day for the expenses incurred by the member which relate to the hiring of a substitute early childhood services provider in order that the member may attend meetings and perform the member's official duties.

2. The early childhood services advisory board shall:
  - a. Advise the department ~~aseach time the department conducts a review of all~~reviews early childhood services rules, ~~a review of which the department shall complete before August 1, 2010;~~
  - b. Upon the completion of the department's review, with the assistance of the department, conduct an analysis of and make recommendations to the department regarding the department's review of the early childhood services rules, however, final approval of any administrative rule changes must be completed through the administrative rulemaking process set forth in chapter 28-32; and
  - c. On an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules. The recommendations, the goal of which is to streamline and improve the quality of the early childhood services process, must seek to balance the need for rules that ensure safe quality child care with the need to revise or eliminate rules that create unnecessary barriers for early childhood service providers.
3. ~~To accommodate the process set forth in subdivisions a and b of subsection 2, any rules the department adopts in response to legislation enacted in 2009 are exempt from the deadline for rules to implement statutory changes set forth in section 28-32-07, however, those rules must be in effect before January 1, 2011.~~

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
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-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2085 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 47                      Nays 0                      Absent 0

\_\_\_\_\_  
President of the Senate

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

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 94                      Nays 0                      Absent 0

\_\_\_\_\_  
Speaker of the House

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

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

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

\_\_\_\_\_  
Secretary of State