

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1136
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to substance use disorder treatment voucher system; to amend and reenact subsections 4 and 5 of section 50-01.2-03, subsection 1 of section 50-06-01.4, sections 50-06-05.1 and 50-06-05.2, subsection 1 of section 50-06-05.3, sections 50-06-05.5 and 50-06-06.6, subsection 1 of section 50-06-20, sections 50-06-23, 50-06-24, and 50-06-29, and subsection 1 of section 50-06-34 of the North Dakota Century Code, relating to departmental updates for statutory consistency, technical corrections, powers and duties of the department, department structure, program activities, regional human service centers, leases, and aging and disability resource center funding; and to repeal sections 50-06-01.5, 50-06-36, 50-06-39, and 50-08.1-01 of the North Dakota Century Code, relating to office and office equipment, developmental disability provider review, expedited ratesetting process, and coordinating services for pregnant women; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 4 and 5 of section 50-01.2-03 of the North Dakota Century Code are amended and reenacted as follows:

4. Subject to subsection ~~4716~~ of section 50-06-05.1, administer the supplemental nutrition assistance program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the supplemental nutrition assistance program with the department of human services.
5. Subject to subsection ~~4918~~ of section 50-06-05.1, administer the home energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the home energy assistance program with the department of human services.

SECTION 2. AMENDMENT. Subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:
 - a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, state youth authority, licensure of ~~day care homes and facilities~~early childhood programs, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.
 - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.

- c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult ~~family~~foster care homes, and the committee on aging, ~~and the fund matching program for city or county tax levies for senior citizen activities and services.~~
- d. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.
- e. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.
- f. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, ~~fuel~~home energy assistance, child support ~~enforcement~~, refugee assistance, work experience, work incentive, and quality control.
- g. Administration of medical service programs, including medical assistance ~~for needy persons~~, children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.

SECTION 3. AMENDMENT. Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department.

The department has the following powers and duties to be administered by the department through its state office or through regional human service centers or otherwise as directed by it:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of deprived, unruly, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate ~~social~~human services related legislation to the legislative assembly.

8. To direct and supervise county social service board activities as may be financed in whole or in part by or with funds allocated or distributed by the department.
9. ~~To inform the public as to social conditions and ways of meeting social needs.~~
40. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
- 41.10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including ~~child care facilities~~ early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
- 42.11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
- 43.12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
- 44.13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, county social service board, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
- 45.14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, ~~all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.~~
- 46.15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, ~~all reports to be kept confidential for use by the judge except as may be disclosed by the judge.~~
- 47.16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, the department shall deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as

an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

- ~~18-17.~~ To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.
- ~~19-18.~~ To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.
- ~~20-19.~~ To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
- ~~21-20.~~ To exercise and carry out any other powers and duties granted the department under state law.
- ~~22.~~ ~~To coordinate services for pregnant women.~~
- ~~23-21.~~ To administer, allocate, and distribute any funds made available for the payment of transitional living services, to develop standards and conduct needs assessments regarding transitional living services, to develop or approve and to evaluate demonstration projects offering transitional living programs, to approve transitional living facilities for the purpose of providing foster care, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection. For purposes of this subsection:
- a. "Transitional living facility" means a specific site, which is identified by a licensed child-placing agency or residential child care facility and which is approved by the department, for the provision of transitional living services.
 - b. "Transitional living program" means a program that provides transitional living services and may include an identified program operations location approved by the department.
 - c. "Transitional living services" may include housing, supervision, and supportive services intended and designed to assist persons who have received foster care services and who have reached age seventeen, but who have not reached age twenty-one, to achieve independence and self-sufficiency.
- ~~24-22.~~ With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal

government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:

- a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
- b. The transaction is exempt from the provisions of section 50-06-06.6.
- c. The term of any lease may not exceed ninety-nine years.
- d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
- e. Any funds realized by any transaction must be deposited in the state's general fund.

~~25-23.~~ To act as a decedent's successor for purposes of collecting amounts due to the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.

~~26-24.~~ To provide those services necessary for the department and for county social service boards to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.

~~27-25.~~ For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.

~~28-26.~~ Notwithstanding section 50-01.2-00.1, to determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

SECTION 4. AMENDMENT. Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.2. Regional human service centers - Licensure - Collocation with county social service boards.

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. Services provided by regional human service centers must include those services formerly provided by mental health and retardation service units and area social service centers. The regional human service centers are subject to licensing by the department. The department shall adopt rules and standards for the licensing and operation of the regional human service centers. No human service center may operate without a license issued hereunder. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers. ~~Any county social service board collocating its offices with a regional human service center must, within the limits of legislative appropriations, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.~~

SECTION 5. AMENDMENT. Subsection 1 of section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

1. Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, ~~including~~

~~health, mental health, education, manpower, social, food and nutrition, and housing service. Regional human service centers shall function as regional administrative units established, within the multicounty areas designated by the governor's executive order 1978-12 dated October 5, 1978, to provide for the planning and delivery of human services.~~

SECTION 6. AMENDMENT. Section 50-06-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.5. Director of regional center - Medical director.

Each regional human service center must be headed by a regional director appointed by the executive director of the department. The regional director must be accountable to the executive director or the director's designee. Each regional director may employ the staff necessary to discharge the center's responsibilities. A regional director, subject to the approval of the executive director of the department or the director's designee, and within the limit of legislative appropriations, may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the regional human service center's service delivery responsibilities. Each regional director shall hire a qualified medical professional who must be designated as the medical director of the center. The medical director is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the regional director, with the concurrence of the executive director or the director's designee. ~~The executive director or the director's designee may appoint the regional director of a center to be the medical director of that center, provided the regional director is qualified to be the medical director.~~ As used in this section, "qualified medical professional" means an individual possessing a degree of doctor of psychiatry a board-eligible or board-certified psychiatrist, when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

SECTION 7. AMENDMENT. Section 50-06-06.6 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.6. Department of human services may lease real and personal property.

The executive director of the department of human services may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The executive director also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest, ~~except those relating to child care services,~~ will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The executive director may prescribe the terms and conditions of any leases entered into pursuant to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium. ~~Any lease or lease renewal of unneeded building or building space may be made only after consultation with the administrator of the state fire and tornado fund.~~

SECTION 8. AMENDMENT. Subsection 1 of section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. As provided in section 50-24.1-14, medical assistance services provided under chapter 50-24.1;
 - b. Energy assistance program benefits provided under subsection 4918 of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. Services, programs, and costs listed in section 50-09-27;

- e. Welfare fraud detection programs; and
- f. Special projects approved by the department and agreed to by any affected county social service board.

SECTION 9. AMENDMENT. Section 50-06-23 of the North Dakota Century Code is amended and reenacted as follows:

50-06-23. Placement of children - Least restrictive care.

The department and county social service boards shall thoroughly explore the option of kinship care when a child is unable to return home due to safety concerns. Absent kinship options, the department and county social service boards shall provide permanency options that are in the least restrictive care and near the family's home as required by the federal Adoption and Safe Family Act of 1997 [Pub. L. 105-89; 111 Stat. 2115; 42 U.S.C. 671]. ~~Before January 1, 2006, the department of human services shall issue a request for proposal for the provision of residential treatment services to meet the needs of youth with a history of sexual offenses within the state and explore options of therapeutic foster care for those youth who would benefit from this service level.~~

SECTION 10. AMENDMENT. Section 50-06-24 of the North Dakota Century Code is amended and reenacted as follows:

50-06-24. Guardianship services.

The department of human services may create and coordinate a unified system for the provision of guardianship services to vulnerable adults who are ineligible for developmental disabilities case program management services. The system must include a base unit funding level at the same level as developmental disability corporate guardianship rates, provider standards, staff competency requirements, and guidelines and training for guardians. The department shall adopt rules for guardianship services to vulnerable adults which are consistent with chapters 30.1-26, 30.1-28, and 30.1-29.

SECTION 11. AMENDMENT. Section 50-06-29 of the North Dakota Century Code is amended and reenacted as follows:

50-06-29. Application for aging and disability resource center funding.

~~No later than December 31, 2007, the~~The department of human services shall ~~seek federal funds for the planning and implementation of~~operate an aging and disability resource center for the state. The resource center will be a single point of information program at the community level which will help people make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care, and which will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. ~~Upon receipt of federal funds, the department of human services may establish the aging and disability resource center or it may request bids and award a contract for the provision of this service. The duties of the aging and disability resource center must include all duties required to receive federal funds, including providing information about the full range of long-term care service and support options available in the state to assure that consumers may make informed decisions about their care. The resource center must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the resource center to limit the information given to a consumer to steer the consumer to services that may also be provided by the resource center.~~

SECTION 12. AMENDMENT. Subsection 1 of section 50-06-34 of the North Dakota Century Code is amended and reenacted as follows:

1. The department shall develop, within current appropriations, a program for services to transition-aged youth at risk. The department shall use a wraparound planning process. The department shall adopt rules to establish eligibility, services, and a distinct statewide interagency advisory council on transition-aged youth at risk, with youth and family representation, and with regional subcommittees. For the purposes of this section, "transition-aged youth" means children and young adults at risk due to:
 - a. Deprivation or other activities resulting in youth being involved with the foster care or juvenile justice system;
 - b. Serious mental illness or serious disabilities that do not qualify the youth for developmental disabilities ~~ease~~program management; or
 - c. Suicidal tendencies.

SECTION 13. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by private licensed substance abuse treatment programs and hospital, or medical clinic, based programs for medical management of withdrawal. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a private licensed substance abuse treatment program, hospitals, and medical clinic programs accepting vouchers collects and reports process and outcome measures. The department shall develop requirements and provide training and technical assistance to a private licensed substance abuse treatment program, hospitals, and medical clinic programs accepting vouchers. A private licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

SECTION 14. REPEAL. Sections 50-06-01.5, 50-06-36, 50-06-39, and 50-08.1-01 of the North Dakota Century Code are repealed.

SECTION 15. EMERGENCY. Section 13 of this Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1136 and 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

This certifies 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

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,
at _____ o'clock _____ M.

Secretary of State