

Introduced by

Senators Hogan, Bekkedahl, Kreun

Representatives K. Koppelman, Schneider, Schreiber-Beck

1 A BILL for an Act to amend and reenact subsection 1 of section 50-11.1-04, sections  
2 50-11.1-07.2, 50-11.1-09, and 50-11.1-10, and subsection 1 of section 50-11.1-17 of the North  
3 Dakota Century Code, relating to early childhood service licensure adverse actions.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 50-11.1-04 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 1. An application for operation of an early childhood program must be made on forms  
8 provided, in the manner prescribed, by the department. The department or the  
9 department's authorized agent shall investigate the applicant's activities and proposed  
10 standards of care and shall make an inspection of all premises to be used by the early  
11 childhood program applying for a license. The applicant for a license and the staff  
12 members, and, if the application is for a program that will be located in a private  
13 residence, every individual living in that residence must be investigated in accordance  
14 with the rules adopted by the department to determine whether any of them has a  
15 criminal record or has had a finding of services required for child abuse or neglect filed  
16 against them. The department may use the findings of the investigation to determine  
17 licensure. Except as otherwise provided, the department shall grant a license for the  
18 operation of an early childhood program within thirty days of receipt of a completed  
19 application and all supporting documents by the department and upon a showing:
- 20 a. The premises to be used are in fit and sanitary condition, are properly equipped  
21 to provide for the health and safety for all children, and are maintained according  
22 to rules adopted by the department;

- 1           b. Staff members are qualified to fulfill the duties required of them according to the  
2           provisions of this chapter and standards prescribed for their qualifications by the  
3           rules of the department;
- 4           c. The application and supporting documents do not include any fraudulent or  
5           untrue representations;
- 6           d. The owner, operator, or applicant has not had an adverse action taken against or  
7           a denial of a previous license or self-declaration ~~denied or revoked~~ within the  
8           twelve months before the date of the current application;
- 9           e. The owner, operator, or applicant has not had an adverse action taken against or  
10           a denial of three or more previous licenses or self-declarations ~~denied or~~  
11           ~~revoked~~. The most recent ~~revocation or denial~~ adverse action or denial may not  
12           have occurred within the five years immediately preceding the application date;
- 13           f. The program paid its license fees and any penalties and sanctions assessed  
14           against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- 15           g. The family child care owner or operator and staff members have received training  
16           and are currently certified in infant and pediatric cardiopulmonary resuscitation  
17           and the use of an automated external defibrillator by the American heart  
18           association, American red cross, or other similar cardiopulmonary resuscitation  
19           and automated external defibrillator training programs that are approved by the  
20           department, and are currently certified in first aid by a program approved by the  
21           department; and
- 22           h. The group child care, preschool, school-age child care, or child care center, at all  
23           times during which early childhood services are provided, staff members have  
24           received training and are currently certified in infant and pediatric  
25           cardiopulmonary resuscitation and the use of an automated external defibrillator  
26           by the American heart association, American red cross, or other similar  
27           cardiopulmonary resuscitation and automated external defibrillator training  
28           programs that are approved by the department, and currently certified in first aid  
29           by a program approved by the department.

30           **SECTION 2. AMENDMENT.** Section 50-11.1-07.2 of the North Dakota Century Code is  
31           amended and reenacted as follows:

1       **50-11.1-07.2. Correction orders.**

2       1. If the department or the department's authorized agent finds, upon inspection, that the  
3       program, self-declaration, or premises is not in compliance with this chapter or the  
4       rules adopted under this chapter, the department or the department's authorized agent  
5       shall issue a correction order to the program or self-declaration, provided the  
6       department does not ~~revoke~~take an adverse action against the license or  
7       self-declaration under section 50-11.1-09 as a result of the noncompliance. The  
8       correction order must cite the specific statute or rule violated, state the factual basis of  
9       the violation, state the suggested method of correction, and specify the time allowed  
10      for correction. The correction order must also specify the amount of any fiscal sanction  
11      to be assessed if the program or self-declaration fails to comply with the correction  
12      order in a timely fashion. This section does not apply to an applicant's failure to  
13      comply with subsection 8 of section 50-11.1-03 or subdivision c of subsection 1 of  
14      section 50-11.1-16.

15      2. Within three business days of the receipt of the correction order, the licensee of the  
16      early childhood program or the holder of a self-declaration shall notify the parent of  
17      each child receiving early childhood services that a correction order has been issued.  
18      In addition to providing notice to the parent of each child, the licensee or holder of a  
19      self-declaration shall post the correction order in a conspicuous location upon the early  
20      childhood premises until the violation has been corrected or for five days, whichever is  
21      longer.

22      **SECTION 3. AMENDMENT.** Section 50-11.1-09 of the North Dakota Century Code is  
23      amended and reenacted as follows:

24      **50-11.1-09. ~~Revocation of~~Adverse action against license, self-declaration, or**  
25      **registration document - Peer review.**

26      1. The department ~~may revoke~~shall establish a peer review process to make  
27      recommendations to the department to determine whether to take an adverse action  
28      against the license, self-declaration, or registration document of any early childhood  
29      services provider upon proper showing of any of the following:

- 1           a. Any of the applicable conditions set forth in sections 50-11.1-04, 50-11.1-06, and  
2           section 50-11.1-17 as prerequisites for the issuance of the license,  
3           self-declaration, or registration document no longer exist.
- 4           b. The licensee, holder of a self-declaration, or registrant is no longer in compliance  
5           with the minimum standards prescribed by the department.
- 6           c. The license, self-declaration, or registration document was issued upon  
7           fraudulent or untrue representation.
- 8           d. The licensee, holder of a self-declaration, or registrant has violated any rules of  
9           the department.
- 10          e. The licensee, holder of a self-declaration, registrant, or a household member of a  
11          home out of which early childhood services are provided has been found guilty  
12          of, or pled guilty to, an offense the department determines has a direct bearing  
13          upon an individual's ability to serve the public as a licensee, a holder of a  
14          self-declaration, or a registrant.
- 15          f. The licensee, holder of a self-declaration, or registrant has been convicted of any  
16          offense and the department, acting pursuant to section 12.1-33-02.1, has  
17          determined that the individual has not been sufficiently rehabilitated.
- 18          g. The department may consider the early childhood services history of the  
19          licensee, holder of a self-declaration, or registrant in determining revocation of a  
20          license, self-declaration, or in-home registration document.
- 21          2. The department shall notify, in writing, the parent of each child receiving early  
22          childhood services from the early childhood services provider that is the subject of the  
23          revocation notice of adverse action.
- 24          3. An adverse action may include revocation or suspension of a license, self-declaration,  
25          or registration and may include issuance of a fine. An adverse action does not include  
26          a correction order issued by the department under section 50-11.1-07.2.

27           **SECTION 4. AMENDMENT.** Section 50-11.1-10 of the North Dakota Century Code is  
28 amended and reenacted as follows:

1           **50-11.1-10. ~~Denial or revocation of~~Adverse action against license, self-declaration, or**  
2 **registration document - Administrative hearing.**

3           Before the department may ~~deny any application for a license, self-declaration, or~~  
4 ~~registration document under this chapter or before the department may revoke~~takes an adverse  
5 action against any license, self-declaration, or registration document, the department shall  
6 provide a written notice to the applicant, licensee, or holder of the self-declaration or registration  
7 document of the reasons for the ~~denial or revocation~~adverse action. The applicant, licensee,  
8 holder of a self-declaration, or registrant may request an administrative hearing appealing the  
9 ~~denial or revocation~~adverse action in the manner provided in chapter 28-32. The applicant,  
10 licensee, holder of a self-declaration, or registrant shall make a request for hearing to the  
11 department within ten days after receipt of the notice of ~~denial or revocation~~adverse action from  
12 the department.

13           **SECTION 5. AMENDMENT.** Subsection 1 of section 50-11.1-17 of the North Dakota  
14 Century Code is amended and reenacted as follows:

- 15           1. Applications for self-declarations must be made on forms provided and in the manner  
16 prescribed by the department. The department or the department's authorized agent  
17 shall investigate the applicant and every individual living in the private residence and  
18 shall conduct a background check. The department or the department's authorized  
19 agent shall conduct the investigation in accordance with the rules adopted by the  
20 department and shall determine whether any of them has a criminal record or has had  
21 a finding of services required for child abuse or neglect filed against them. Except as  
22 otherwise provided, the department shall approve a self-declaration within thirty days  
23 of receipt of a completed application and all supporting documents by the department  
24 and upon the applicant's declaration:
- 25           a. The premises to be used are in fit and sanitary condition to provide for the health  
26 and safety of all children and are maintained according to the standards  
27 prescribed by the rules of the department;
- 28           b. The applicant is able to provide for the health and safety of each child receiving  
29 early childhood services from the applicant according to this chapter and  
30 standards prescribed by the department as set forth in its rules;

- 1           c. The applicant has not had an adverse action taken against or a denial of a  
2           previous license or self-declaration ~~denied or revoked~~ within the twelve months  
3           before the date of the current application;
- 4           d. The applicant has not had an adverse action taken against or a denial of three or  
5           more previous licenses or self-declarations ~~denied or revoked~~. The most recent  
6           ~~revocation~~adverse action or denial may not have occurred within five years of the  
7           application date;
- 8           e. The applicant has paid the required application fees;
- 9           f. The applicant has paid any penalties and sanctions assessed against the  
10          program required by sections 50-11.1-03 and 50-11.1-07.4;
- 11          g. The applicant is currently certified in infant and pediatric cardiopulmonary  
12          resuscitation and the use of an automated external defibrillator by the American  
13          heart association, the American red cross, or a similar cardiopulmonary  
14          resuscitation and automated external defibrillator training program approved by  
15          the department;
- 16          h. The emergency designee used by the applicant, if any, is currently certified in  
17          infant and pediatric cardiopulmonary resuscitation and the use of an automated  
18          external defibrillator by the American heart association, the American red cross,  
19          or a similar cardiopulmonary resuscitation and automated external defibrillator  
20          training program approved by the department;
- 21          i. The applicant is currently certified in first aid through a training program approved  
22          by the department; and
- 23          j. The application and supporting documents do not include any fraudulent or  
24          untrue representations.