

PUBLIC WELFARE

CHAPTER 391

SENATE BILL NO. 2124

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact five new sections to chapter 50-01.1 and chapter 50-35 of the North Dakota Century Code, relating to creation of human service zones; to amend and reenact sections 11-16-01 and 11-23-01, subdivision c of subsection 1 of section 14-02.1-02.1, sections 14-08.1-01, 14-09-06.3, 14-09-06.4, 14-09-12, 14-09-19, 14-10-05, and 14-15-01, subdivision i of subsection 1 of section 14-15-09, sections 14-15-11, 14-15-12, and 14-15-12.1, subsection 3 of section 14-15-13, sections 23-06-03, 23-41-01, 23-41-06, 25-04-08.1, and 25-04-11, subsection 2 of section 25-04-16, sections 26.1-45-13, 27-20-02, 27-20-11, 27-20-20.1, 27-20-30, and 27-20-30.1, subsection 2 of section 27-20-31, sections 27-20-38, 27-20-44, 27-20-45, 27-20-47, 27-20-49, and 27-20-54, subsection 2 of section 27-21-12, section 30-16-04, subsection 1 of section 30.1-26-01, subsection 3 of section 30.1-28-11, subdivision h of subsection 1 of section 40-01.1-04, sections 50-01-01, 50-01-01.1, 50-01-02, 50-01-04, 50-01-13, 50-01-17, 50-01-17.1, 50-01-17.2, 50-01-17.3, 50-01-17.5, 50-01-19, 50-01-21, 50-01-26, 50-01-27, 50-01-28, 50-01-29, 50-01.1-01, 50-01.1-02, 50-01.1-03, 50-01.1-04, 50-01.2-00.1, 50-01.2-01, 50-01.2-02, 50-01.2-03, 50-01.2-03.2, 50-01.2-04, and 50-01.2-05, subsection 4 of section 50-06-01, sections 50-06-01.4, 50-06-01.9, and 50-06-05.1, subsection 3 of section 50-06-05.3, sections 50-06-05.8, 50-06-06.2, 50-06-06.5, 50-06-06.14, 50-06-12, 50-06-20, 50-06.2-01, 50-06.2-02, 50-06.2-03, 50-06.2-04, 50-06.2-06, 50-09-01, 50-09-02, 50-09-02.2, 50-09-03, 50-09-04, 50-09-06, 50-09-07, and 50-09-08, subsections 2, 3, and 4 of section 50-09-08.2, sections 50-09-08.3, 50-09-08.4, and 50-09-09, subsection 1 of section 50-09-14, sections 50-09-29 and 50-09-30, subsection 2 of section 50-11-00.1, sections 50-11.1-02, 50-11.2-01, 50-11.2-02, 50-24.1-03.1, 50-24.1-03.2, and 50-24.5-01, subsection 1 of section 50-24.5-02, sections 50-24.5-03, 50-24.5-07, 50-24.5-09, and 50-24.7-01, subsection 1 of section 50-24.7-02, sections 50-24.7-03 and 50-24.7-06, subsections 6 and 11 of section 50-25.1-02, sections 50-25.1-04.3, 50-25.2-14, 50-29-01, 50-29-02, 50-29-03, and 54-46-13, subsection 3 of section 57-15-01.1, sections 57-15-06.7 and 57-20-07.1, subsection 3 of section 57-20-07.3, subdivision b of subsection 1 of section 57-55-10, and subsection 16 of section 65-01-02 of the North Dakota Century Code, relating to the establishment and operation of human service zone areas, taxing district levy limitations, and property tax statements; to repeal sections 50-01-03, 50-01.1-02.1, 50-01.2-03.1, and 50-01.2-06, chapter 50-03, and sections 50-06-05.7, 50-06-06.1, 50-06-20.1, 50-06.2-05, and 50-25.1-06.1 of the North Dakota Century Code, relating to administration of county social service boards, the county human services fund, and caseload standards; to provide for a report; to provide a penalty; to provide a contingent appropriation; to provide for the transfer of employees; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

11-16-01. Duties of the state's attorney.

The state's attorney is the public prosecutor, and shall:

1. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.
2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the state's attorney has information that such offenses have been committed, and for that purpose, when the state's attorney is not engaged in criminal proceedings in the district court, the state's attorney shall attend upon the magistrates in cases of arrests when required by them except in cases of assault and battery and petit larceny.
3. Attend before, and give advice to, the grand jury whenever cases are presented to it for consideration.
4. Draw all indictments and informations.
5. Defend all suits brought against the state or against the county.
6. Prosecute all bonds forfeited in the courts of record of the county and prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to the county.
7. Deliver duplicate receipts for money or property received in the state's attorney's official capacity and file copies thereof with the county auditor.
8. On the first Monday of January, April, July, and October in each year, file with the county auditor an account, verified by the state's attorney's oath, of all money received by the state's attorney in an official capacity in the preceding three months, and at the same time, pay it over to the county treasurer.
9. Give, when required and without fee, the state's attorney's opinion in writing to the county, district, township, and school district officers on matters relating to the duties of their respective offices.
10. Keep a register of all official business in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.
11. Repealed by S.L. 1945, ch. 161, § 1.
- ~~12.~~ Act as legal adviser of the board of county commissioners, attend the meetings thereof when required, and oppose all claims and actions presented against the county which are unjust or illegal.
- ~~13.~~12. Institute an action in the name of the county to recover any money paid upon the order of the board of county commissioners without authority of law as salary, fee, or for any other purpose, or any money paid on a warrant drawn

by any officer to that officer's own order or in favor of any other person without authorization by the board of county commissioners or by law.

- ~~44-13.~~ Institute an action in the name of the county to restrain the payment of any money described in any order or warrant of the kind described in subsection 13 when the state's attorney secures knowledge of such order or warrant before the money is paid thereon.
- ~~45-14.~~ Assist the district court in behalf of the recipient of payments for child support or spousal support combined with child support in all proceedings instituted to enforce compliance with a decree or order of the court requiring such payments.
- ~~46-15.~~ Institute proceedings under chapter 25-03.1 if there is probable cause to believe that the subject of a petition for involuntary commitment is a person requiring treatment.
16. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20, and 50-01 upon consultation with the human service zone director or the executive director of the department of human services.
17. Act as the legal advisor and represent a human service zone as set forth in a plan approved under section 50-01.1-03. The state's attorney within the human service zone, by way of agreement, shall designate a singular state's attorney's office, within or outside the human service zone, to act as legal advisor of the human service zone. The host county state's attorney shall serve as the legal advisor if no agreement is reached. The agreement may not limit a state's attorney's individual discretion in court filings and representation.
18. Act as the legal advisor and represent the human service zone regarding employer actions, including grievances and appeals, taken against the human service zone team member. The state's attorney of the county by which the human service zone team member is employed shall act as the legal advisor of the human service zone, unless a different agreement is established by the affected state's attorney.

The state's attorney shall not require any order of the board of county commissioners to institute an action under subsection ~~13 or 14~~ 12 or 13.

SECTION 2. AMENDMENT. Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

11-23-01. Officers required to furnish commissioners with departmental budget. (Effective through ~~July~~December 31, 2019)

Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.

Officers required to furnish commissioners with departmental budget. (Effective after ~~July~~December 31, 2019)

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.
2. a. ~~The departmental budget submitted by the county social~~human ~~service board in 2019 for the 2020 budget~~zone may not exceed an amount determined using the departmental budget submitted in 2016 by the county social service board as a starting point, subtracting the reduction in the county's social service funding responsibility for 2016 derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services, and applying to the resulting amount the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year 2019. For purposes of this subdivision, the reduction in the county's social service funding responsibility derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services includes the following:
 - (1) Foster care and subsidized adoption costs that would have been paid by the county after December 31, 2015;
 - (2) The county's share of grant costs for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services which would have been paid by the county after December 31, 2015;
 - (3) The county's share of the costs for service payments to the elderly and disabled which would have been paid by the county after December 15, 2015;
 - (4) The county's share of salary and benefits for family preservation services pursuant to section 50-06-05.8 which would have been paid by the county after December 31, 2015;
 - (5) The county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program which would have been paid by the county after December 31, 2015; and
 - (6) The computer processing costs which would have been paid by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996 by the department of human services and the human service zone director pursuant to section 50-35-04 and must include the county's cost allocation of indirect costs based on a formula established by the department of human services.

- b. ~~The county share of the human service budget zone's indirect costs must be funded entirely from the county's property tax levy for that purpose and the county may not use funds from any other source to supplement the human services budget, with the exception that the county may make use of the identifiable amount of other sources the county has used to supplement its human services budget for 2015 and the county may use grant funds that may be available to the county under section 50-06-20.1 general fund.~~
- c. ~~The department of human services shall develop a process to review a request from a county social human service board zone for any proposed increase in staff needed as a result of significantly increased caseloads for state-funded human services programs, if the increase in staff would result in the county exceeding the budget limitation established under this subsection. As part of its review process, the department of human services shall review countywide pertinent factors, which may include caseload information and consider the option of multicounty sharing of staff. If the department of human services approves a request for a proposed increase in staff, the county human service zone budget limitation established under subdivision b may be increased by the amount determined necessary by the department of human services to fund the approved additional staff. The human service zone director shall submit the proposed increase in staff to the human service zone board for review. The human service zone director shall work with the department to achieve equitable compensation and salary increases for all human service zone team members within the human service zone. The human service zone director shall notify appropriate host county staff of all staffing changes for administrative purposes.~~
3. For purposes of this section, "host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

¹⁵⁰ **SECTION 3. AMENDMENT.** Subdivision c of subsection 1 of section 14-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. ~~Materials that include information on the support obligations of the father of a child who is born alive, including the father's legal duty to support his child, which may include child support payments and health insurance, and the fact that paternity may be established by the father's signature on an acknowledgment of paternity or by court action. The printed material must also state that more information concerning paternity establishment and child support services and enforcement may be obtained by calling state public assistance agencies or county public assistance agencies human service zones.~~

SECTION 4. AMENDMENT. Section 14-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14-08.1-01. Liability for support.

A person legally responsible for the support of a child under the age of eighteen years who is not subject to any subsisting court order for the support of the child and

¹⁵⁰ Section 14-02.1-02.1 was also amended by section 2 of House Bill No. 1336, chapter 125.

who fails to provide support, subsistence, education, or other necessary care for the child, regardless of whether the child is not or was not in destitute circumstances, is liable for the reasonable value of physical and custodial care or support which has been furnished to the child by any person, institution, agency, or ~~county social~~ human service board ~~zone~~. Any payment of public assistance money made to or for the benefit of any dependent child creates a presumption that such payment equals the reasonable value of physical and custodial care or support.

SECTION 5. AMENDMENT. Section 14-09-06.3 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.3. Custody investigations and reports - Costs.

1. In contested proceedings dealing with parental rights and responsibilities the court, upon the request of either party, or, upon its own motion, may order an investigation and report concerning parenting rights and responsibilities regarding the child. The court shall designate a person or agency responsible for making the investigation and report, which designees may include the ~~county social~~ human service board ~~zone~~, public health officer, school officials, and any other public agency or private practitioner ~~if the court~~ deems qualified to make the investigation.
2. The investigator may consult any person who may have information about the child and any potential arrangements for parenting rights and responsibilities, and upon order of the court may refer the child to any professional personnel for diagnosis.
3. The court shall mail the investigator's report to counsel and to any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.
4. The court shall enter an order for the costs of any such investigation against either or both parties, except that if the parties are indigent the expenses must be borne by the ~~county~~ human service zone where the child resided at the time the action was commenced or if a modification of parental rights and responsibilities, at the time the motion to modify is served.

SECTION 6. AMENDMENT. Section 14-09-06.4 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.4. Appointment of guardian ad litem or investigator for child in proceedings involving parental rights and responsibilities - Immunity.

In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor child, and in any action when the parenting rights and responsibilities concerning the child is contested, either party to the action may petition the court for the appointment of a guardian ad litem to represent the child concerning parenting rights and responsibilities. The court may appoint a guardian ad litem or investigator on its own motion. If appointed, a guardian ad litem shall serve as an advocate of the child's best interests. If appointed, the investigator shall provide those services as

prescribed by the supreme court. The court may direct either or both parties to pay the guardian ad litem or investigator fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the ~~county~~human service zone where the child resided at the time the action was commenced. The court may direct either or both parties to reimburse the ~~county~~human service zone, in whole or in part, for such payment. Any guardian ad litem or investigator appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the guardian ad litem or investigator is a disputable presumption.

SECTION 7. AMENDMENT. Section 14-09-12 of the North Dakota Century Code is amended and reenacted as follows:

14-09-12. Support by county - Liability of parent's estate.

If a parent chargeable with the support of a child dies leaving it chargeable upon the ~~county~~human service zone and leaving an estate sufficient for its support, the ~~board of county commissioners of the county~~department of human services, in the name of the ~~county~~human service zone, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditor against that estate and against the heirs, devisees, and next of kin of the parent.

SECTION 8. AMENDMENT. Section 14-09-19 of the North Dakota Century Code is amended and reenacted as follows:

14-09-19. Parental abuse.

The abuse of parental authority is the subject of judicial cognizance in a civil action in the district court brought by the child, or by its relatives of the child within the third degree, or by the ~~county social~~human service boardzone of the county where the child resides, and when the abuse is established the child may be freed from the dominion of the parent and the duty of support and education may be enforced.

SECTION 9. AMENDMENT. Section 14-10-05 of the North Dakota Century Code is amended and reenacted as follows:

14-10-05. Assignment of children prohibited - Penalty.

No person, other than the parents, may assume the permanent care and custody of a child, unless authorized so to do by an order or decree of a court having jurisdiction, except that a parent, upon giving written notice to the department of human services and human service zone, may place that person's own child in the home of the child's grandparent, uncle, or aunt for adoption or guardianship by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. No parent may assign or otherwise transfer the parent's rights or duties with respect to the care and custody of the parent's child. Any such transfer or assignment, written or otherwise, is void. This section does not affect the right of the parent to consent in writing to the legal adoption of the parent's child, but such written consent does not operate to transfer any right in the child in the absence of a decree by a court having jurisdiction. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

SECTION 10. AMENDMENT. Section 14-15-01 of the North Dakota Century Code is amended and reenacted as follows:

14-15-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Abandon" means:
 - a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause to:
 - (1) Communicate with the child; or
 - (2) Provide for the care and support of the child as required by law.
 - b. As to a parent of a child in that parent's custody:
 - (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
 - (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
 - (3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
2. "Adult" means an individual who is not a minor.
3. "Agency" means an entity licensed under chapter 50-12 to place minors for adoption.
4. "Child" means a son or daughter, whether by birth or adoption.
5. "Court" means the district court of this state, and when the context requires means the court of any other state empowered to grant petitions for adoption.
6. "Department" means the department of human services.
7. "Genetic parent" means the biological mother or adjudicated mother of the adopted child, or the presumed father or adjudicated father of the adopted child under chapter 14-20.
8. "Genetic sibling" means individuals with genetic relationship of sister, brother, half-sister, or half-brother.
9. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
10. "Identifying" includes full name, address, date of birth, telephone number, or anything that may lead to the identity of any previously undisclosed individual.
- ~~10-11.~~ "Investigation" includes information obtained regarding the child's history, a preplacement adoption assessment of the prospective adoptive family, and an evaluation of the child's placement in the adoptive home.

14-12. "Minor" means an individual under the age of eighteen years.

14-13. "Nonidentifying adoptive information" means:

- a. Age of genetic parent in years at the birth of the adopted child.
- b. Heritage of genetic parent.
- c. Educational attainments, including the number of years of school completed by genetic parent at the time of birth of the adopted child.
- d. General physical appearance of genetic parent at the time of birth of the adopted child, including the height, weight, color of hair, eyes, skin, and other information of a similar nature.
- e. Talents, hobbies, and special interests of genetic parents.
- f. Existence of any other children born to either genetic parent.
- g. Reasons for child being placed for adoption or for termination of parental right.
- h. Religion of genetic parent.
- i. Vocation of genetic parent in general terms.
- j. Health history of genetic parents and blood relatives in a manner prescribed by the department.
- k. Such further information which, in the judgment of the agency, will not be detrimental to the adoptive parent or the adopted individual requesting the information, but the additional information may not identify genetic parents by name or location.

14-14. "Relative" means any individual having the following relationship to the minor by marriage, blood, or adoption: brother, sister, stepbrother, stepsister, first cousin, uncle, aunt, or grandparent.

14-15. "Stepparent" means an individual who is married to a parent of a child who has not adopted the child.

SECTION 11. AMENDMENT. Subdivision i of subsection 1 of section 14-15-09 of the North Dakota Century Code is amended and reenacted as follows:

- i. The department ~~or~~ and a county ~~social~~ human service ~~board~~ zone as ~~respondent~~ respondents.

SECTION 12. AMENDMENT. Section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

14-15-11. Notice of petition - Investigation and hearing.

1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing must be given by the petitioner to the department and human

service zone; any agency or individual whose consent to the adoption is required by this chapter but who has not consented; an individual whose consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not consented; and any individual identified by the court as a biological parent or a possible biological parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 27-20-45, unless the individual has relinquished parental rights or the individual's parental rights have been previously terminated by a court. The notice to the department and human service zone must be accompanied by a copy of the petition.

- b. Notice of the filing of a petition to adopt an adult must be given by the petitioner at least twenty days before the date of the hearing to each living parent of the adult to be adopted.
2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.
3. A written report of the investigation must be filed with the court by the investigator before the petition is heard.
4. The report of the investigation must contain a review of the child's history; a preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; and a postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.
5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.
6. The department and human service zone, when required to consent to the adoption, may request the licensed child-placing agency to conduct further investigation and to make a written report thereof as a supplemental report to the court.
7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any individual whose consent to the adoption is required but who has not consented and to each living parent of the adult to be adopted. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the individuals involved.

8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil Procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice must be filed with the court before the petition is heard.

SECTION 13. AMENDMENT. Section 14-15-12 of the North Dakota Century Code is amended and reenacted as follows:

14-15-12. Required residence of minor.

1. A final decree of adoption may not be issued and an interlocutory decree of adoption does not become final, until the minor to be adopted, other than a stepchild of the petitioner, has lived in the adoptive home:
 - a. For at least six months after placement by an agency;
 - b. For six months after placement by a parent in accordance with an identified relinquishment under chapter 14-15.1;
 - c. As a foster child for at least six months and has been placed for adoption by an agency; or
 - d. For at least six months after the department and human service zone or the court has been informed of the custody of the minor by the petitioner, and the department and human service zone or the court has had an opportunity to observe or investigate the adoptive home.
2. If a child who has been placed for adoption dies before the six-month residency requirement of subsection 1 is met, the court may grant the final decree of adoption upon a finding that a proper and legitimate reason exists for granting the final decree.

SECTION 14. AMENDMENT. Section 14-15-12.1 of the North Dakota Century Code is amended and reenacted as follows:

14-15-12.1. Health insurance requirements for adoptees.

The department or child-placing agency involved in an adoption action may at any time before a final decree of adoption, if legal custody of the individual to be adopted is not held by the department, a county social service board, a child-placing agency, or an equivalent office or agency outside the state, require the petitioner for the adoption of another individual to show proof that a health insurance policy is in effect which provides coverage for the individual to be adopted. If proof of health insurance coverage is submitted by the petitioner, no further bond of any kind may be required by the department or a county social service board in regard to health coverage of the individual to be adopted.

SECTION 15. AMENDMENT. Section 14-15-12.1 of the North Dakota Century Code is amended and reenacted as follows:

14-15-12.1. Health insurance requirements for adoptees.

The department or child-placing agency involved in an adoption action may at any time before a final decree of adoption, if legal custody of the individual to be adopted is not held by the department, a county social service board, human service zone, a child-placing agency, or an equivalent office or agency outside the state, require the petitioner for the adoption of another individual to show proof that a health insurance

policy is in effect which provides coverage for the individual to be adopted. If proof of health insurance coverage is submitted by the petitioner, no further bond of any kind may be required by the department or a ~~county social~~ human service board ~~zone~~ in regard to health coverage of the individual to be adopted.

SECTION 16. AMENDMENT. Subsection 3 of section 14-15-13 of the North Dakota Century Code is amended and reenacted as follows:

3. If at the conclusion of the hearing, the court determines that the required consents have been obtained and that the adoption is in the best interest of the individual to be adopted, the court may:
 - a. Issue a final decree of adoption; or
 - b. Issue an interlocutory decree of adoption which by its own terms automatically becomes a final decree of adoption on a day specified in the decree, that day may not be less than six months nor more than one year after the minor was placed in the adoptive home by an agency or after the department and human service zone or the court was informed of the custody of the minor by the petitioner, unless sooner vacated by the court for good cause shown. In an interlocutory decree of adoption, the court shall provide for observation, investigation, and further report on the adoptive home during the interlocutory period.

¹⁵¹ **SECTION 17. AMENDMENT.** Section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

23-06-03. Duty of final disposition - Indigent burial - Decedent's instructions.

1. The duty of disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
 - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
 - b. The surviving spouse if the deceased was married;
 - c. If the deceased was not married but left kindred, upon the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
 - d. The surviving parent or parents of the decedent, each having equal authority;
 - e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral

¹⁵¹ Section 23-06-03 was also amended by section 1 of Senate Bill No. 2208, chapter 207.

- director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
- f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;
 - g. The grandparent or the grandparents of the decedent, each having equal authority;
 - h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;
 - i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;
 - j. An adult who exhibited special care and concern for the decedent;
 - k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or
 - l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the ~~county social~~ human service ~~board~~ zone of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.
2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.
 3. If an individual to whom the right to control and duty of disposition devolves under subsection 1, refuses to accept or declines to act upon the right or duty, that right and duty passes as follows:
 - a. To another individual with the same degree of relationship to the decedent as the individual refusing to accept or declining to act; or

- b. To the individual in the next degree of relationship to the decedent under subsection 1.
4. If a dispute exists regarding the right to control or duty of disposition, the parties in dispute or the mortician or funeral director may file a petition in the district court in the county of residence of the decedent requesting the court make a determination in the matter. If the right to control and duty of disposition devolves to more than one individual with the same degree of relationship to the decedent and those individuals do not, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making a determination:
 - a. The reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;
 - b. The degree of the personal relationship between the decedent and each of the individuals in the same degree of relationship to the decedent;
 - c. The expressed wishes and directions of the decedent and the extent to which the decedent provided resources for the purpose of carrying out the wishes or directions; and
 - d. The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.
5. If the individual who has the duty of final disposition does not arrange for final disposition of the body within the time required by this chapter, the individual next specified shall bury or otherwise dispose of the body within the requirements of this chapter.
6. a. If the deceased did not leave sufficient means to pay for expenses of final disposition, including the cost of a casket, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the ~~county's human service zone's~~ general assistance policy, within fifteen days of application for services the ~~county social human service board zone~~ of the county in which the deceased had residence for ~~county~~ general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the ~~county social human service board zone~~ of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the ~~county human service zone~~ in which the deceased was a resident for ~~county~~ general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.
 - b. ~~Each board of county commissioners~~The department of human services may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.

- c. ~~The county social services board~~department of human services may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. ~~The county social~~human service board~~zone~~ shall pay the charge for funeral expenses as negotiated by the ~~board of county commissioners~~department of human services. ~~The county social~~human service board~~zone~~ may not decrease the ~~county~~human service zone payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section.
7. If the individual with the duty of final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.
8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury or cremate the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

SECTION 18. AMENDMENT. Section 23-41-01 of the North Dakota Century Code is amended and reenacted as follows:

23-41-01. Definitions.

In this chapter unless the context or subject matter otherwise requires:

1. ~~"County agency" means the county social service boards in this state.~~
2. "Department" means the state department of health.
2. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of human services.
3. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and

maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

- b. A service or assistance provided, administered, or supervised by the department of human services in accordance with chapter 50-06.
- c. Licensing duties as administered or supervised by the department of human services or delegated by the department of human services to a human service zone.

SECTION 19. AMENDMENT. Section 23-41-06 of the North Dakota Century Code is amended and reenacted as follows:

23-41-06. Duties of ~~county agencies~~human service zones.

A ~~county agency~~human service zone shall:

1. Cooperate with the department in administering this chapter in its ~~county~~human service zone, subject to rules adopted by the ~~department~~state health council.
2. Make surveys and reports regarding children with special health care needs in the various counties to the department when the department directs and in the way the department directs.
3. Provide for the transportation of a child with special health care needs to a clinic for medical examination and to a hospital or a clinic for treatment.

SECTION 20. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification ~~prior to~~before discharge.

~~Prior to~~Before discharge the superintendent shall consult with the parent or guardian of the person to be discharged, or with the court ~~which~~that ordered the commitment, and shall notify the director of the county social service board ~~or~~human service zone of the county ~~wherein~~in which it is proposed that such person will assume residence and also shall notify the executive director of the department of human services.

SECTION 21. AMENDMENT. Section 25-04-11 of the North Dakota Century Code is amended and reenacted as follows:

25-04-11. Disposition of person who is not a legal resident.

If a person who has no legal residence in this state is subject to admission to the life skills and transition center or other appropriate state facility, by order of a court of competent jurisdiction, such person must be sent, at the expense of the county ~~or~~human service zone, to the life skills and transition center in the same manner as a resident of this state who is found to be in need of services offered at the life skills and transition center, and the superintendent of the life skills and transition center shall then arrange for the transportation of such person to the place where the person belongs. The department of human services shall ascertain the place where such person belongs when the same conveniently can be done.

SECTION 22. AMENDMENT. Subsection 2 of section 25-04-16 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon receipt of such application, the supervising department shall direct the ~~county social~~human service board~~zone~~ of the county from which the patient was admitted to determine whether the application is complete and supported by the required proofs. The supervising department shall approve, reject, or amend the determination made by the ~~county social~~human service board~~zone~~. The determination made by the supervising department may be appealed to the district court of the county of residence of the patient.

SECTION 23. AMENDMENT. Section 26.1-45-13 of the North Dakota Century Code is amended and reenacted as follows:

26.1-45-13. Qualified service providers.

Any insurance company providing long-term care coverage for home and community-based services shall pay a provider meeting qualified service provider standards a daily payment allowance as defined in the policy or certificate. "Qualified service provider" means a ~~county agency~~human service zone or independent contractor that agrees to meet standards for personal attendant care service as established by the department of human services.

¹⁵² **SECTION 24. AMENDMENT.** Section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

27-20-02. Definitions.

As used in this chapter:

1. "Abandon" means:
 - a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:
 - (1) To communicate with the child; or
 - (2) To provide for the care and support of the child as required by law; or
 - b. As to a parent of a child in that parent's custody:
 - (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
 - (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
 - (3) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.
3. "Aggravated circumstances" means circumstances in which a parent:

¹⁵² Section 27-20-02 was also amended by section 1 of Senate Bill No. 2073, chapter 264.

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- a. Abandons, tortures, chronically abuses, or sexually abuses a child;
 - b. Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for a period equal to the lesser of:
 - (1) One year; or
 - (2) One-half of the child's lifetime, measured in days, as of the date a petition alleging aggravated circumstances is filed;
 - c. Engages in conduct prohibited under sections 12.1-20-01 through 12.1-20-08 or chapter 12.1-27.2, in which a child is the victim or intended victim;
 - d. Engages in conduct that constitutes one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, or 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
 - (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury;
 - e. Engages or attempts to engage in conduct, prohibited under sections 12.1-17-01 through 12.1-17-04, in which a child is the victim or intended victim;
 - f. Has been incarcerated under a sentence for which the latest release date is:
 - (1) In the case of a child age nine or older, after the child's majority; or
 - (2) In the case of a child, after the child is twice the child's current age, measured in days;
 - g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or
 - h. Allows the child to be present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.
4. "Child" means an individual who is:
- a. Under the age of eighteen years and is not married; or
 - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years.

5. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of a court.
6. "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law, and the crime does not fall under subdivision c of subsection 4921.
7. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
8. "Deprived child" means a child who:
 - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.
 - h. Is a victim of human trafficking as defined in title 12.1.
9. "Detention" means a physically secure facility with locked doors and does not include shelter care, attendant care, or home detention.
10. "Director" means the director of juvenile court or the director's designee.
11. "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified person under chapter 30.1-27, and who consents in writing to act as a legal guardian.

12. "Home" when used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
13. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
14. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
15. "Juvenile court" means the district court of this state.
- 44-16. "Juvenile drug court" means a program established in a judicial district consisting of intervention and assessment of juveniles involved in forms of substance abuse; frequent drug testing; intense judicial and probation supervision; individual, group, and family counseling; substance abuse treatment; educational opportunities; and use of sanctions and incentives.
- 45-17. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:
 - a. Whether and, if applicable, when the child will be returned to the parent;
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
 - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:
 - (1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement,
 - (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and

(3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;

- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
- h. In the case of a child who has attained age fourteen, the services needed to assist the child to make the transition to successful adulthood.

46-18. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.

47-19. "Relative" means:

- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
- b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
- c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
- d. The child's stepparent.

48-20. "Shelter care" means temporary care of a child in physically unrestricted facilities.

49-21. "Unruly child" means a child who:

- a. Is habitually and without justification truant from school;
- b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
- c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution;
- d. Has committed an offense in violation of section 5-01-08; or
- e. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, tobacco-related products, electronic smoking devices, or alternative nicotine products in violation of subsection 2 of section 12.1-31-03; and

f. In any of the foregoing instances is in need of treatment or rehabilitation.

As used in this subsection, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

~~20-22.~~ "Willfully" has the meaning provided in section 12.1-02-02.

SECTION 25. AMENDMENT. Section 27-20-11 of the North Dakota Century Code is amended and reenacted as follows:

27-20-11. Venue.

A proceeding under this chapter may be commenced in the county in which the child resides. A proceeding under section 27-20-30.1 must be commenced in the administrative county within the administrative human service zone, as determined by the department of human services. If delinquent or unruly conduct is alleged, the proceeding may be commenced in the county in which the acts constituting the alleged delinquent or unruly conduct occurred. If deprivation is alleged, the proceeding may be brought in the county in which the child is present when it is commenced, the county in which the child has resided the majority of the thirty days prior to the date of the alleged deprivation, or the county where the alleged deprivation has occurred. The court shall determine the appropriate venue for a deprivation action based upon the best interests of the child.

SECTION 26. AMENDMENT. Section 27-20-20.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-20.1. Petition to terminate parental rights - When brought - Definitions.

1. A petition to terminate parental rights may be made as provided under this section and section 27-20-45.
2. Except as provided in subsection 3, a petition for termination of parental rights must be filed:
 - a. If the child has been in foster care, in the custody of the department or county social service board, or, in cases arising out of an adjudication by the court that a child is an unruly child, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
 - b. Within sixty days after a court of competent jurisdiction has found the child to be an abandoned infant; or
 - c. Within sixty days after a court of competent jurisdiction has convicted the child's parent of one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1 of section 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or

- (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury.
3. A petition for termination of parental rights need not be filed if:
 - a. The child is being cared for by a relative approved by the department in collaboration with the county social service board;
 - b. The department or county social service board has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests and has notified the court that the documentation is available for review by the court; or
 - c. The department or county social service board has determined:
 - (1) Reasonable efforts to preserve and reunify the family are required under section 27-20-32.2 to be made with respect to the child;
 - (2) The case plan provides such services are necessary for the safe return of the child to the child's home; and
 - (3) Such services have not been provided consistent with time periods described in the case plan.
4. For purposes of subsection 2, a child in foster care entered foster care on the earlier of:
 - a. The date of the court's order if the court:
 - (1) Made a finding that the child has been subjected to child abuse or neglect;
 - (2) Determined that it is unsafe or contrary to the welfare of the child to remain in the home; and
 - (3) Granted custody of the child to the department or county social service board or, in cases arising out of an adjudication by the court that a child is an unruly child, the division of juvenile services; or
 - b. The date that is sixty days after:
 - (1) The date of a hearing under section 27-20-17 which results in retaining a child in shelter care;
 - (2) The date of an order in a dispositional hearing under which a child is placed in foster care; or
 - (3) The date a child is placed in foster care voluntarily and with the consent of the child's parent.
5. For purposes of subsection 2, a child leaves foster care when:
 - a. The court enters an order:

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- (1) Denying a petition to grant care, custody, and control of the child to the ~~department~~county social service board or the division of juvenile services;
 - (2) Terminating an order that granted custody of the child to the department, the county social service board, or the division of juvenile services; or
 - (3) Appointing a legal guardian under section 27-20-48.1;
- b. The court order under which the child entered foster care ends by operation of law;
 - c. The child is placed in a parental home by the court or a legal custodian other than the division of juvenile services and the legal custodian lacks authority to remove the child without further order of the court; or
 - d. The child is placed in a parental home by the division of juvenile services.
6. For purposes of subsection 2, a child is not in foster care on any night during which the child is:
- a. On a trial home visit;
 - b. Receiving services at the youth correctional center pursuant to an adjudication of delinquency; or
 - c. Absent without leave from the place in which the child was receiving foster care.
7. For purposes of this section:
- a. "A finding that the child has been subjected to child abuse or neglect" means:
 - (1) A finding of deprivation made under chapter 27-20; or
 - (2) A conviction of a person, responsible for a child's welfare, for conduct involving the child, under chapter 12.1-16 or sections 12.1-17-01 through 12.1-17-04 or 12.1-20-01 through 12.1-20-08.
 - b. "Compelling reason" means a recorded statement that reflects consideration of:
 - (1) The child's age;
 - (2) The portion of the child's life spent living in the household of a parent of the child;
 - (3) The availability of an adoptive home suitable to the child's needs;
 - (4) Whether the child has special needs; and
 - (5) The expressed wishes of a child age ten or older.

- c. "Department" means the department of human services or its designee, including any county social service board.

SECTION 27. AMENDMENT. Section 27-20-20.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-20.1. Petition to terminate parental rights - When brought - Definitions.

1. A petition to terminate parental rights may be made as provided under this section and section 27-20-45.
2. Except as provided in subsection 3, a petition for termination of parental rights must be filed:
 - a. If the child has been in foster care, in the custody of the department, human service zone, or county social service board, or, in cases arising out of an adjudication by the court that a child is an unruly child, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
 - b. Within sixty days after a court of competent jurisdiction has found the child to be an abandoned infant; or
 - c. Within sixty days after a court of competent jurisdiction has convicted the child's parent of one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
 - (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1 of section 14-09-22 in which the victim is another child of the parent;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
 - (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury.
3. A petition for termination of parental rights need not be filed if:
 - a. The child is being cared for by a relative approved by the department ~~in collaboration with the county social service board and human service zone;~~
 - b. The department, human service zone, or county social service board has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests and has notified the court that the documentation is available for review by the court; or
 - c. The department or county social service board before January 1, 2021, or the human service zone has determined:
 - (1) Reasonable efforts to preserve and reunify the family are required under section 27-20-32.2 to be made with respect to the child;

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- (2) The case plan provides such services are necessary for the safe return of the child to the child's home; and
 - (3) Such services have not been provided consistent with time periods described in the case plan.
 4. For purposes of subsection 2, a child in foster care entered foster care on the earlier of:
 - a. The date of the court's order if the court:
 - (1) Made a finding that the child has been subjected to child abuse or neglect;
 - (2) Determined that it is unsafe or contrary to the welfare of the child to remain in the home; and
 - (3) Granted custody of the child to the department, human service zone, or county social service board or, in cases arising out of an adjudication by the court that a child is an unruly child, the division of juvenile services; or
 - b. The date that is sixty days after:
 - (1) The date of a hearing under section 27-20-17 which results in retaining a child in shelter care;
 - (2) The date of an order in a dispositional hearing under which a child is placed in foster care; or
 - (3) The date a child is placed in foster care voluntarily and with the consent of the child's parent.
 5. For purposes of subsection 2, a child leaves foster care when:
 - a. The court enters an order:
 - (1) Denying a petition to grant care, custody, and control of the child to the ~~county social service board~~ human service zone or the division of juvenile services;
 - (2) Terminating an order that granted custody of the child to the ~~department, the county social service board;~~ human service zone or the division of juvenile services; or
 - (3) Appointing a legal guardian under section 27-20-48.1;
 - b. The court order under which the child entered foster care ends by operation of law;
 - c. The child is placed in a parental home by the court or a legal custodian other than the division of juvenile services and the legal custodian lacks authority to remove the child without further order of the court; or
 - d. The child is placed in a parental home by the division of juvenile services.

6. For purposes of subsection 2, a child is not in foster care on any night during which the child is:
 - a. On a trial home visit;
 - b. Receiving services at the youth correctional center pursuant to an adjudication of delinquency; or
 - c. Absent without leave from the place in which the child was receiving foster care.
7. For purposes of this section:
 - a. "A finding that the child has been subjected to child abuse or neglect" means:
 - (1) A finding of deprivation made under chapter 27-20; or
 - (2) A conviction of a person, responsible for a child's welfare, for conduct involving the child, under chapter 12.1-16 or sections 12.1-17-01 through 12.1-17-04 or 12.1-20-01 through 12.1-20-08.
 - b. "Compelling reason" means a recorded statement that reflects consideration of:
 - (1) The child's age;
 - (2) The portion of the child's life spent living in the household of a parent of the child;
 - (3) The availability of an adoptive home suitable to the child's needs;
 - (4) Whether the child has special needs; and
 - (5) The expressed wishes of a child age ten or older.
 - c. "Department" means the department of human services or its designee, including any county social service board.
 - d. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

SECTION 28. AMENDMENT. Section 27-20-30 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30. Disposition of deprived child.

1. If the child is found to be a deprived child, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
 - a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.

- b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
 - (1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
 - (2) The director of the ~~county social~~human service ~~board~~zone or other public agency authorized by law to receive and provide care for the child.
 - c. Require the parents, guardian, or other custodian to participate in treatment.
 - d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian.
 - e. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, establish, by order, some other planned permanent living arrangement.
 - f. Without a compelling reason to the contrary, a court order that transfers the child from the current protective placement to a parent or other biological family must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.
2. Unless a child found to be deprived is found also to be delinquent or unruly and not amenable to treatment, the child may not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

¹⁵³ **SECTION 29. AMENDMENT.** Section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30.1. Disposition of child needing continued foster care services.

1. For purposes of this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.
2. A petition to commence an action under this section must contain information required under section 27-20-21 along with an affidavit either prepared by the administrative ~~county~~human service zone, as determined by the department of human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.
3. The court shall issue a summons in accordance with section 27-20-22 upon the filing of a petition and affidavit.
4. If a child is in need of continued foster care services as determined by the human service zone and the department of human services and as set forth in

¹⁵³ Section 27-20-30.1 was also amended by section 5 of Senate Bill No. 2036, chapter 54.

a continued foster care agreement, the court shall make the following judicial determination:

- a. That the child is not deprived, delinquent, or unruly but is in need of continued foster care services;
 - b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;
 - c. That the child's continued foster care agreement has been willfully entered between:
 - (1) The human service zone and the department of human services or its agent, the child, and the foster care provider; or
 - (2) An agency or tribal council of a recognized Indian reservation in North Dakota if the child is not subject to the jurisdiction of the state of North Dakota, the child, and the foster care provider;
 - d. That it is in the best interest of the child to remain in or return to foster care;
 - e. That reasonable efforts were made in accordance with subsection 7 of section 27-20-32.2;
 - f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;
 - g. That the child has satisfied the education, employment, or disability requirements under the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of human services;
 - h. That the administrative ~~county~~human service zone, as determined by the department, or that an agency or tribal council of a recognized Indian reservation in North Dakota, shall continue foster care case management, unless otherwise agreed to or required by the department;
 - i. That the administrative ~~county~~human service zone or an agency or tribal council of a recognized Indian reservation in North Dakota must have care and placement responsibility of the child;
 - j. That permanency hearing must be as set forth in section 27-20-36; and
 - k. That there are no grounds to file a petition to terminate parental rights under chapter 27-20.
5. Pursuant to ~~N.D.R. Juv.P., Rule 16~~rule 16 of the North Dakota Rules of Juvenile Procedure, a court may modify or vacate the judicial determination made under subsection 4.

¹⁵⁴ **SECTION 30. AMENDMENT.** Subsection 2 of section 27-20-31 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁴ Section 27-20-31 was also amended by section 3 of House Bill No. 1520, chapter 256.

2. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court or the director of the ~~county social~~human service board under conditions and limitations the court prescribes;

SECTION 31. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult suggested by the parents, subject to exceptions due to family or domestic violence, that:
 - a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department and county social service board to receive a subsidized guardianship payment.
4. For purposes of this section, "sibling of the child entering foster care" means:
 - a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.

SECTION 32. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult suggested by the parents, subject to exceptions due to family or domestic violence, that:
 - a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department and ~~county social service board~~ human service zone to receive a subsidized guardianship payment.
4. For purposes of this section, "sibling of the child entering foster care" means:
 - a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.

¹⁵⁵ **SECTION 33. AMENDMENT.** Section 27-20-44 of the North Dakota Century Code is amended and reenacted as follows:

27-20-44. Termination of parental rights.

1. The court by order may terminate the parental rights of a parent with respect to the parent's child if:
 - a. The parent has abandoned the child;
 - b. The child is subjected to aggravated circumstances as defined under subsection 3 of section 27-20-02;
 - c. The child is a deprived child and the court finds:
 - (1) The conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or
 - (2) The child has been in foster care, in the care, custody, and control of the department, ~~or~~ a county social service board, or human service zone, or, in cases arising out of an adjudication by the juvenile court that a child is an unruly child, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights; or
 - d. The written consent of the parent acknowledged before the court has been given.
2. If the court does not make an order of termination of parental rights, it may grant an order under section 27-20-30 if the court finds from clear and convincing evidence that the child is a deprived child.

¹⁵⁶ **SECTION 34. AMENDMENT.** Section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

27-20-45. Proceeding for termination of parental rights.

1. The petition must comply with section 27-20-21 and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20-46.
2. If both of the natural parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry must include, to the extent necessary and appropriate, all of the following:
 - a. Whether any man is presumed to be the father of the child under chapter 14-20.

¹⁵⁵ Section 27-20-44 was also amended by section 1 of Senate Bill No. 2185, chapter 259.

¹⁵⁶ Section 27-20-45 was also amended by section 6 of Senate Bill No. 2036, chapter 54.

- b. Whether the natural mother of the child was cohabiting with a man at the time of conception or birth of the child.
 - c. Whether the natural mother of the child has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy.
 - d. Whether any person has formally or informally acknowledged or declared that person's possible parentage of the child.
 - e. Whether any person claims any right to custody of the child.
3. The court shall add as respondent to the petition and cause to be served with a summons any person identified by the court as an unnamed parent, unless the person has relinquished parental rights, or parental rights have been previously terminated by a court.
 4. If the court, after inquiry, is unable to identify an unnamed parent and no person has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.
 5. If a petition for termination of parental rights is made by a parent of the child under this section or if a parent consents to termination of parental rights under section 27-20-44, that parent is entitled under section 27-20-26 to legal counsel during all stages of a proceeding to terminate the parent and child relationship.
 6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this section, the order cannot be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.
 7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the county social service board and the department of human services.

SECTION 35. AMENDMENT. Section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

27-20-45. Proceeding for termination of parental rights.

1. The petition must comply with section 27-20-21 and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20-46.
2. If both of the natural parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry must include, to the extent necessary and appropriate, all of the following:

- a. Whether any man is presumed to be the father of the child under chapter 14-20.
 - b. Whether the natural mother of the child was cohabiting with a man at the time of conception or birth of the child.
 - c. Whether the natural mother of the child has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy.
 - d. Whether any person has formally or informally acknowledged or declared that person's possible parentage of the child.
 - e. Whether any person claims any right to custody of the child.
3. The court shall add as respondent to the petition and cause to be served with a summons any person identified by the court as an unnamed parent, unless the person has relinquished parental rights, or parental rights have been previously terminated by a court.
 4. If the court, after inquiry, is unable to identify an unnamed parent and no person has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.
 5. If a petition for termination of parental rights is made by a parent of the child under this section or if a parent consents to termination of parental rights under section 27-20-44, that parent is entitled under section 27-20-26 to legal counsel during all stages of a proceeding to terminate the parent and child relationship.
 6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this section, the order cannot be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.
 7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the ~~county social service board~~ human service zone and the department of human services.

SECTION 36. AMENDMENT. Section 27-20-47 of the North Dakota Century Code is amended and reenacted as follows:

27-20-47. Disposition upon termination of parental rights.

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
 - a. Commit the child to the custody of the ~~executive director of the department of human services~~ county social service director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence thereof, in a foster home;

- b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
 - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
 3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.

SECTION 37. AMENDMENT. Section 27-20-47 of the North Dakota Century Code is amended and reenacted as follows:

27-20-47. Disposition upon termination of parental rights.

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
 - a. Commit the child to the custody of the ~~county social service~~ human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence thereof, in a foster home;
 - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
 - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.

¹⁵⁷ **SECTION 38. AMENDMENT.** Section 27-20-49 of the North Dakota Century Code is amended and reenacted as follows:

27-20-49. Costs and expenses for care of child.

1. The following expenses are a charge upon the funds of the county or human service zone upon certification thereof by the court:
 - a. The cost of medical and other examinations and treatment of a child ordered by the court.

¹⁵⁷ Section 27-20-49 was also amended by section 1 of House Bill No. 1070, chapter 260, and section 6 of Senate Bill No. 2073, chapter 264.

- b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children or to a private agency or individual other than a parent.
 - c. The cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court unless the child is in the legal custody of a state agency.
2. The commission on legal counsel for indigents shall pay reasonable compensation for services and related expenses of counsel provided at public expense for a party and the supreme court shall pay reasonable compensation for a guardian ad litem. The attorney general shall pay the witness fees, mileage, and travel expense of witnesses incurred in the proceedings under this chapter in the amount and at the rate provided for in section 31-01-16. Expenses of the state include the cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court if the child is in the legal custody of a state agency in which case the cost must be reimbursed to the county or human service zone by that state agency at the state mileage rate, excluding meals and lodging, plus twenty-nine cents per mile.
 3. If, after due notice to the parents or other persons legally obligated to care for and support the child, and to a child over the age of eighteen, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in subsection 1, and expenses payable by the supreme court under subsection 2, the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered, payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county, human service zone, or the state to the county treasurer of the county, the county treasurer of the host county, or to the state treasurer.
 4. Unless it finds that there is no likelihood that the party is or will be able to pay attorney's fees and expenses, the court, in its order or judgment following a hearing under this chapter, shall order the parents or other persons legally obligated to care for and support the child, and the child if over the age of eighteen, to reimburse the presumed amount of indigent defense costs and expenses, as determined by the commission on legal counsel for indigents, and shall notify the party of the right to a hearing on the reimbursement amount. If the party or the state requests a hearing within thirty days of receiving notice under this subsection, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount of reimbursement and method of payment, the court shall consider the financial resources of the party and the nature of the burden that reimbursement of costs and expenses will impose.
 5. A party who is required to reimburse indigent defense costs and expenses and who is not willfully in default in that reimbursement may at any time petition the court to waive reimbursement of all or any portion of the attorney's fees and expenses. If the court is satisfied that reimbursement of the amount due will impose undue hardship on the party or the party's immediate family, the court may waive reimbursement of all or any portion of the amount due or modify the method of payment.

¹⁵⁸ **SECTION 39. AMENDMENT.** Section 27-20-54 of the North Dakota Century Code is amended and reenacted as follows:

27-20-54. Destruction of juvenile court records.

1. Except as otherwise required under section 25-03.3-04, all juvenile court records must be retained and disposed of pursuant to rules and policies established by the North Dakota supreme court.
2. Upon the final destruction of a file or record, the proceeding must be treated as if it never occurred. The juvenile court shall notify each agency named in the file or record of the destruction. All index references, except those which may be made by the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, law enforcement agencies, and ~~county social service agencies~~human service zones, must be deleted. Each agency, except the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, law enforcement agencies, and ~~county social service agencies~~human service zones, upon notification of the destruction of a file or record, shall destroy all files, records, and references to the child's apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court. The attorney general, the department of human services, the department of corrections and rehabilitation, law enforcement agencies, and ~~county social service agencies~~human service zones may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency. Upon inquiry in any matter the child, the court, and representatives of agencies, except the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, law enforcement agencies, and ~~county social service agencies~~human service zones, shall properly reply that no record exists with respect to the child.

SECTION 40. AMENDMENT. Subsection 2 of section 27-21-12 of the North Dakota Century Code is amended and reenacted as follows:

2. Notwithstanding any other provisions of law relating to confidentiality, except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws, the division may disclose all or part of a juvenile's files and records, including juvenile court orders, medical, psychological, education, and treatment and counseling records, to individuals employed by the following if the knowledge is reasonably necessary in the best interest of the juvenile and for the protection of others:
 - a. The district court or juvenile court.
 - b. A parent or legal guardian of the juvenile, the parent's or legal guardian's counsel, or the juvenile's counsel, when the juvenile court has committed the juvenile to the custody of the division of juvenile services, and the records are relevant to a proceeding under chapter 27-20 or to a placement hearing under section 27-21-02.1, or when disclosure is necessary for the juvenile's treatment and rehabilitation plan. If the juvenile

¹⁵⁸ Section 27-20-54 was also amended by section 1 of Senate Bill No. 2074, chapter 262.

court determines that it is against the best interests of the juvenile to disclose records to a parent or legal guardian, the juvenile court may issue an order prohibiting disclosure and describing the records that may not be disclosed.

- c. An employee or agent of any division of the department of corrections and rehabilitation when necessary to carry out the duties of the department.
- d. The department of human services or a ~~county social~~human service agency~~zone~~.
- e. A licensed hospital or medical facility, a public or private treatment facility, or a residential care or treatment facility, when necessary for the evaluation, treatment, or care of a juvenile in the custody of the division of juvenile services.
- f. A law enforcement agency when the division has reasonable grounds to believe the juvenile has committed a delinquent act or has threatened to commit a delinquent act involving serious bodily injury, or when the juvenile is required to register, or is registered, under section 12.1-32-15.
- g. A school district or multidistrict special education program in which the juvenile is enrolled.
- h. The office of the attorney general.
- i. The risk management division of the office of management and budget and investigators, consultants, or experts retained by the state for the purpose of investigating and defending claims under chapter 32-12.2.

SECTION 41. AMENDMENT. Section 30-16-04 of the North Dakota Century Code is amended and reenacted as follows:

30-16-04. Descent and distribution of real property subject to homestead estate.

The real property subjected to the homestead estate descends, subject to the full satisfaction of that estate, exempt from decedent's debts except claims in favor of the county for county general assistance, the department of human services for general assistance, and also for claims of the state of North Dakota for repayment of old-age assistance and aid to the permanently and totally disabled and as otherwise provided in section 47-18-04, and must be distributed in the manner in which real property not subjected to a homestead estate is distributed or as directed in the decedent's will. The real property constituting the homestead of a decedent, or any part thereof, may not descend or be distributed to any person other than the surviving spouse and decedent's heirs in the direct descending line as prescribed in title 30.1 until all the decedent's debts are fully paid.

SECTION 42. AMENDMENT. Subsection 1 of section 30.1-26-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Alternative resource plan" means a plan that provides an alternative to guardianship, using available support services and arrangements which are acceptable to the alleged incapacitated person. The plan may include the use of providers of service such as visiting nurses, homemakers, home health aides, personal care attendants, adult day care and multipurpose senior

citizen centers; home and community-based care, ~~county social services~~human service zones, and developmental disability services; powers of attorney, representative and protective payees; and licensed congregate care facilities.

SECTION 43. AMENDMENT. Subsection 3 of section 30.1-28-11 of the North Dakota Century Code is amended and reenacted as follows:

3. Except as provided in subsection 2, persons who are not disqualified have priority for appointment as guardian in the following order:
 - a. A person nominated by the incapacitated person prior to being determined to be incapacitated, when nominated by means other than provided in subsection 2, if the incapacitated person is fourteen or more years of age and, in the opinion of the court, acted with or has sufficient mental capacity to make an intelligent choice.
 - b. The spouse of the incapacitated person.
 - c. An adult child of the incapacitated person.
 - d. A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent.
 - e. Any relative of the incapacitated person with whom the incapacitated person has resided for more than six months prior to the filing of the petition.
 - f. Any relative or friend who has maintained significant contacts with the incapacitated person or a designated person from a volunteer agency.
 - g. A nonprofit corporation established to provide guardianship services; provided, that the corporation does not provide direct care to incapacitated persons. The corporation shall file with the court the name of an employee, volunteer, or other person from the corporation who is directly responsible for the guardianship of each incapacitated person, and shall notify the court in the event the person for any reason ceases to so act, or if a successor is named.
 - h. Any appropriate government agency, including ~~county social~~human service agencieszones, except as limited by subsection 1.
 - i. A person nominated by the person who is caring for or paying benefits to the incapacitated person.

SECTION 44. AMENDMENT. Subdivision h of subsection 1 of section 40-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

- h. Use of other statutory tools relating to social and economic development, land use, transportation and roads, health, law enforcement, administrative and fiscal services, recording and registration services, educational services, environmental quality, water, sewer, solid waste, flood relief, parks and open spaces, hospitals, public buildings, or other county functions or services, including creation of cooperative county job development authorities pursuant to section 11-11.1-03, multicounty health units pursuant to chapter 23-35, regional planning and zoning

commissions pursuant to section 11-35-01, boards of joint county park districts pursuant to chapter 11-28 or a combination of boards of park commissioners with a city pursuant to chapter 40-49.1, or ~~multicounty socialhuman service districts~~zones pursuant to chapter 50-01.1.

SECTION 45. AMENDMENT. Section 50-01-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01-01. CountyHuman service zone obligated to support poor - Eligibility for assistance –~~Transfer of property as security for assistance.~~

Within the limits of the ~~county human services~~service zone appropriation, each ~~countyhuman service zone~~ in this state is obligated, upon receipt of a written application, to provide ~~county~~ general assistance to persons who are residents of the ~~countyhuman service zone~~ and who are eligible. To be eligible for ~~county~~ general assistance, the applicant:

1. May not have made, before or after making an application for ~~county~~ general assistance, an assignment or transfer of property for the purpose of rendering the applicant eligible for assistance.
2. Shall comply with the written eligibility standards for ~~county~~ general assistance established by the ~~county socialhuman service board~~zone director or department of human services. A copy of the written standards must be available upon request. Pursuant to this requirement, the ownership of property by an applicant for ~~county~~ general assistance, or by the spouse of the applicant, either individually or jointly, or of insurance on the life of the applicant does not preclude the granting of assistance if the applicant is without funds for the applicant's support. ~~As a condition to the granting of county general assistance, however, the applicant may be required to transfer the property in trust by appropriate instrument as security for relief the applicant may receive, unless the property consists of one of the following:~~
 - a. ~~A homestead.~~
 - b. ~~A life insurance policy having a cash surrender value of less than three hundred dollars.~~
 - c. ~~Personal property of a value less than three hundred dollars, not including household goods, wearing apparel, and personal effects, such as money.~~
 - d. ~~Property selected by the applicant having a value of less than three hundred dollars.~~
 - e. ~~Real or personal property held in trust for the applicant by the federal government.~~
 - f. ~~Real or personal property on which the taking of security may be prohibited through legislation enacted by the Congress of the United States.~~

SECTION 46. AMENDMENT. Section 50-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-01-01.1. Determination of eligibility - Notice - Appeal.

The ~~human service zone~~ director of the ~~county social service board~~, or an individual designated by the ~~county social service board~~, or the ~~director's designee~~ is responsible for determining, within a reasonable period of time, an applicant's eligibility for ~~county~~ general assistance under this chapter. The applicant must be provided written notice of the determination. The notice must include the reasons for the determination, as well as an explanation of the applicant's right to a timely appeal of the determination to the ~~county social service board~~human service zone board if aggrieved by the decision. Decisions of the ~~county social service board~~human service zone board regarding appeals taken pursuant to this section are subject to judicial review in the manner prescribed by chapter 28-32.

SECTION 47. AMENDMENT. Section 50-01-02 of the North Dakota Century Code is amended and reenacted as follows:

50-01-02. County ~~general~~General assistance jurisdiction.

The ~~county social~~human service board of each ~~county~~zone, through the ~~human service zone director~~, or the ~~director's designee~~, has exclusive jurisdiction and control of the administration of ~~county~~ general assistance within the ~~county~~human service zone, except as otherwise provided in this title.

SECTION 48. AMENDMENT. Section 50-01-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01-04. Records to be kept.

Every person who administers ~~county~~ general assistance shall maintain reasonable records.

SECTION 49. AMENDMENT. Section 50-01-13 of the North Dakota Century Code is amended and reenacted as follows:

50-01-13. Medical attention and hospitalization furnished to poor.

Within the limits of the ~~county~~ human services~~service zone~~ appropriation, the ~~county social~~human service board~~zone~~ promptly shall provide necessary medical services, covered in the written eligibility standards for general assistance, for any poor person in the ~~county~~human service zone who is not provided for in a public institution. The ~~county social~~human service board~~zone~~ shall cause to be furnished to the person the necessary covered medicines prescribed by a physician. Necessary covered hospitalization must be furnished by the ~~county~~human service zone upon approval or subsequent ratification by the ~~board~~human service zone director or the director's designee. If the poor person is a nonresident of the state, the ~~county~~human service zone furnishing the medical services must be reimbursed within the limits of funds appropriated for that purpose by the legislative assembly for eighty percent of the expenses incurred in carrying out this section. The reimbursement must be made upon vouchers having the approval of the department of human services.

SECTION 50. AMENDMENT. Section 50-01-17 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17. Person required to work.

If a person applying for ~~county~~ general assistance is able to work, or if any member of that person's family is able to work, the ~~county social~~human service board of the ~~county~~zone in which the person is a resident may insist that those able to work seek employment and the ~~board~~human service zone director or the director's

~~designee~~ may refuse to furnish any assistance until it is satisfied that the person claiming assistance is endeavoring to find work. The ~~board~~human service zone may attempt to secure, for a person claiming ~~county~~ general assistance, who is able to work, employment in the county where the person resides and may call upon residents of the county to aid the ~~board~~human service zone in finding work for that person.

SECTION 51. AMENDMENT. Section 50-01-17.1 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.1. Work requirement conditions.

If a person applying for ~~county~~ general assistance is able to work, the ~~county social~~human service board~~zone director~~ or the ~~director's~~ designee, at its option, may require the applicant to comply with any or all of the following provisions as a condition to receiving ~~public~~general assistance:

1. To register with job service North Dakota.
2. To participate in work incentive programs in accordance with the guidelines established for public assistance programs.
3. To accept work which is available through community work experience programs.

SECTION 52. AMENDMENT. Section 50-01-17.2 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.2. Community work experience programs - Development.

The ~~county social service board~~department of human services may develop community work experience programs through agreements with any public entity, nonprofit agency or organization, or in conjunction with, or through utilization of, applicable federal programs. The number of hours to be worked may be determined by dividing the amount of the assistance payment by the prevailing minimum wage.

SECTION 53. AMENDMENT. Section 50-01-17.3 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.3. Community work experience program requirements.

Any community work experience program established pursuant to this chapter must provide:

1. That appropriate health, safety, and work conditions exist.
2. That the program does not result in displacement of persons currently employed.
3. That the program does not apply to jobs covered by a collective bargaining agreement.
4. That recipients will not be required to travel an unreasonable distance from their homes or to remain away from their homes overnight.

5. That the ~~county social~~ human service ~~board~~ zone shall provide for transportation and all other costs reasonably necessary for and directly related to a recipient's participation in the program.

SECTION 54. AMENDMENT. Section 50-01-17.5 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.5. Refusal to comply with work requirements - Denial of relief.

Refusal of any applicant or recipient, without good cause, to comply with any work requirements established pursuant to this chapter may be grounds for denial or termination of ~~county~~ general assistance.

¹⁵⁹ **SECTION 55. AMENDMENT.** Section 50-01-19 of the North Dakota Century Code is amended and reenacted as follows:

50-01-19. Duty of relative to aid - Right of recovery by county and department.

The father, the mother, and every child of any person who is eligible for county general assistance ~~before January 1, 2020, and general assistance thereafter,~~ and who is unable to work to support oneself shall maintain that person to the extent of the ability of each. ~~The county may recover for necessities furnished to an indigent person from that person's father, mother, or adult children.~~

SECTION 56. AMENDMENT. Section 50-01-21 of the North Dakota Century Code is amended and reenacted as follows:

50-01-21. County has and department have preferred claim against estate of recipient of county general assistance or general assistance.

Funds used for subsistence, medical, hospital, or burial expenses of a recipient of county general assistance or general assistance may not be considered as gifts, and the county ~~has and department have~~ a preferred claim against the estate of any person who has received county general assistance or general assistance for funds expended for that person and that person's legal dependents. The statute of limitations does not run on this type of claim.

SECTION 57. AMENDMENT. Section 50-01-26 of the North Dakota Century Code is amended and reenacted as follows:

50-01-26. County Human service zone of residence for county general assistance purposes.

A person who has residence in this state, for ~~county~~ general assistance purposes, is a resident of the ~~county~~ human service zone in which the person is living on other than a temporary basis. If a person is living in a ~~county~~ human service zone on a temporary basis, the person is a resident of the ~~county~~ human service zone in which the person most recently lived other than on a temporary basis.

SECTION 58. AMENDMENT. Section 50-01-27 of the North Dakota Century Code is amended and reenacted as follows:

50-01-27. State of residence for county general assistance purposes.

¹⁵⁹ Section 50-01-19 was repealed by section 2 of Senate Bill No. 2225, chapter 129.

A person who is a resident of this state for purposes of chapter 50-24.5 is a resident of this state for county general assistance purposes. If a person moves from this state for other than a temporary purpose, the person's residency in this state for county general assistance purposes is lost. Residency in this state is presumed lost if:

1. The person plans to be absent or has been absent from this state for one year or longer; or
2. The person receives any form of public or general assistance, while in another state, which is available only to residents of that state.

SECTION 59. AMENDMENT. Section 50-01-28 of the North Dakota Century Code is amended and reenacted as follows:

50-01-28. Change of residence to another county human service zone.

~~When~~If a person who is receiving county general assistance in one county human service zone becomes a resident of another county human service zone in this state, the county human service zone from which the person moves shall forward appropriate records and files to the new county human service zone of residence.

SECTION 60. AMENDMENT. Section 50-01-29 of the North Dakota Century Code is amended and reenacted as follows:

50-01-29. Persons with uncertain residence.

If the residence of a person is uncertain for county general assistance purposes, the county human service zone in which the person lives shall provide county general assistance until that person's residence is determined.

SECTION 61. AMENDMENT. Section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. ~~"County agency" means the county social service board.~~
2. ~~"State department~~Department" means the department of human services.
2. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
3. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
4. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
5. "Human service zone team member" means a county employee who is responsible for administering or delivering human services under the direction of the human service zone director.

6. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, locally administered economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
7. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies. These costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.
8. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone office and include:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.

SECTION 62. AMENDMENT. Section 50-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-02. ~~Consolidation of county agencies into multicounty social~~Creation of human service districtszones.

1. In order to provide optimum service, reduce program costs, and benefit recipients of ~~social~~human services within this state, ~~any two or more counties, by agreement entered into through action of their boards of county commissioners, may shall~~ combine and consolidate their county agencies into a ~~multicounty social~~human service ~~district~~zones in the manner provided in this chapter. ~~Multicounty social~~
2. Human service ~~districts~~zones succeed to all the powers and duties enumerated for county agencies and shall perform all the functions and responsibilities assigned to county agencies by this title. When consistent with this chapter, all provisions relating to county agencies contained in this title apply to and govern ~~multicounty social~~human service ~~districts~~. ~~The~~zones.
3. Counties shall identify other counties with which to enter a human service zone agreement, and together the board of county commissioners of any county desiring to become a member of a multicounty social service district shall file with the state department a written request for membership agreement to create a human service zone , together with a plan for the creation of such a district, if such a district does not already exist no later than December 1, 2019. The agreement must identify the proposed counties of the human service zone, host county, identify the human service zone board members, and agree to seek approval from the department regarding hiring or dismissal of county social services or human service zone employees. The department shall review and approve all agreements in accordance with section 50-01.1-03. The department may modify the agreements as specified in section 50-01.1-03 or if some of the counties are not included in a human service zone. If counties do not submit an agreement, the department shall create the human service zone. The board of county commissioners shall submit a plan must be prepared as prescribed in section 50-01.1-04 by June 1, 2020. The department shall approve the plan in accordance with section 50-01.1-04 by January 1, 2021. The board of county commissioners shall provide quarterly updates as requested by the department to the department after the agreement is approved until the plan is submitted as requested.
4. ~~The request agreement and proposed plan must be approved or disapproved by the state department in accordance with section 50-01.1-03. In permitting the creation of such a district, the state department shall, to as great a degree as possible, allow the consolidation of county agencies in such a manner as will conform with the existing pattern of the trade area and with any regional pattern established by the executive department of this state.~~
5. A county with a population exceeding sixty thousand individuals according to the 2010 United States census may submit an agreement and proposed plan to operate as a single human service zone or to consolidate with other counties into a human service zone.
6. Counties shall consider leveraging existing cooperative agreements between county agencies and shall consider how to collaborate to best meet local need, promote efficiency, service delivery, and ensure quality service.
7. Counties' plan must allow nonresidents of the participating counties of a human service zone to access human services.

8. Counties' plan must continue to provide funding for indirect costs associated with the service delivery of human services pursuant to chapter 50-35.
9. Counties' plan must set forth that the human service zone director may hire and impose disciplinary actions on a human service zone team member. The counties' plan must specify any role transitions for human service zone team members as well as the procedures for team member grievances, appeals, and disciplinary actions. The counties' plan must also permit the department authority to reduce full-time equivalent positions in combination with a transfer of the positions or a human service zone team member's separation from employment. The component of the plan developed under this subsection must be consistent with merit system requirements, chapter 54-44.3 and corresponding rules, and the template developed by the department for the human service zone plans under section 50-06-01.4.
10. The counties' plan must specify that reductions in access points may only be made with agreement of the human service zone board, the county commissions of affected counties, and the department.
11. The counties' plan must include information regarding the human service zone's liability coverage for the human service zone board, human service zone director, human service zone team members, human service zone property, and any unique contractual relationships with the state, other human service zones, or other entities.
12. Counties' plan must include a statement of agreement between the human service zone and the department allowing for review of proposed transfers of staff from the human service zone to the department, from the department to the human service zone, or among other human service zones. Approval by human service zone board or the county commissions is not required.
13. Counties' plan must include a description of all unique locally provided programs and services that the counties are proposing to continue to provide within the human service zone and to be funded under this plan.
14. Counties' agreement and plan must set forth the membership of the human service zone board of a human service zone. The human service zone board may not consist of more than fifteen members, as determined by the boards of county commissioners.

SECTION 63. AMENDMENT. Section 50-01.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-03. Manner of determination –Notices–Hearings.

1. In determining whether the creation of a ~~multicounty social~~ human service district ~~zone~~ should be approved ~~or established~~, the state department shall refer to, among other pertinent factors, the following:
 4. a. Whether the affected county agencies are able to supply an adequate level and quality of social and economic assistance services.
 2. b. The number and qualifications of staff personnel serving the affected county agencies.

- 3- c. The ratio of the number of cases handled by the affected county agencies to the number of their staff personnel.
- 4- d. The geographical area and population served by the affected county agencies.
- 5- e. The distance of recipients from the affected county agencies.
- 6- f. The benefits that would be realized from the creation of the ~~district~~human service zone in terms of lower costs, increased availability of services, new services, and improvement of services.

~~Any county that is denied approval to become a member of a multicounty social service district may request a hearing thereon. The state department shall notify the board of county commissioners of the right to appeal. The board has thirty days after receipt of the notice to request a hearing. If a hearing is requested, the state department shall hold the hearing within fifteen days after receipt of the request. At the hearing, evidence may be presented relative to the creation of the proposed multicounty social service district. The hearing must be conducted in accordance with the applicable provisions of chapter 28-32.~~

- g. The amount of current and future access points for individuals to apply for and receive services within a human service zone.
 - h. The existing pattern of the counties trade area and any regional pattern established by the department.
 - i. Whether the county has a population exceeding sixty thousand individuals according to the 2010 United States census to operate as a single human service zone and whether it is in the best interest of the neighboring counties.
 - j. The maximum number of human service zones created may not exceed nineteen.
 - k. Whether the human service zone director can adequately supervise the activities and operations of the human service zone.
 - l. Whether the human service zone board is constituted of individuals that represent the population of the human service zone.
 - m. Other good cause.
2. The department has final approval of a human service zone. The department may establish or modify a human service zone based on the criteria set forth in subsection 1. All human service zones must be initially approved or established by January 1, 2020, and may be modified thereafter through a process developed by the department.

SECTION 64. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Distribution of property - Governing Human service zone board - Compensation of members.

1. A plan for the creation of a ~~multicounty social~~ human service district ~~zone~~ must describe the method of operation of the ~~district~~ human service zone office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. ~~The plan must provide that all services provided by county officials to county agencies under this code be provided by those county officials residing within the same county in which the district office of the multicounty social service district is located.~~ The plan must also provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the method of resolution of any disagreement between the boards of county commissioners involved in the ~~multicounty district~~ human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded or terminated in accordance with its terms. ~~The plan also may provide that the regional director of a regional human service center serves as the director of the multicounty social service district, or modified by the department through a process developed by the department.~~
2. The governing board of the multicounty social service district annually shall prepare a proposed budget for the district at the time and in the manner in which a county budget is adopted and shall submit the proposed budget to the board of county commissioners of each county in the district for approval. The amount budgeted and approved must be sufficient to defray the anticipated expenses of administration and the delivery of social and economic assistance services, exclusive of grants, and must be prorated among the counties based on an agreed-to cost distribution formula that takes into consideration such factors as caseload, population, taxable valuation, and geographical area of the respective counties comprising the district. Within ten days following approval of the proposed budget by the boards of county commissioners, the governing board of the district shall certify the budget to the respective county auditors of the counties in the district, and this amount must be included in the levies of the counties. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated costs of county general assistance and that county's share of grants as provided under this title. The amounts budgeted and approved by the several boards of county commissioners must be periodically deposited with the treasurer of the county in which the district office is located, as requested by the treasurer, and must be placed in a special multicounty social service district fund. The governing board, or its president and secretary when authorized by the governing board, shall audit all claims against the fund. The governing board at its regularly scheduled meeting shall approve or ratify all claims against the fund. The county treasurer shall pay approved or ratified claims from the fund. Unexpended funds remaining at the end of a fiscal year may be carried over to the next fiscal year.
3. The governing board of a multicounty social service district consists of not more than fifteen members, as determined by the plan. The plan must establish a method of determining the number of members that will be appointed by each county within the multicounty social service district. The method may consider the ratio that each county's population bears to the total population of the multicounty social service district, the ratio of current social service caseload, or other equitable factors; provided, that each county included in the district must be represented by at least one board member.

The board of county commissioners of each county within the multicounty social service district shall make the appointments to the governing board. Members must be appointed for a term of three years or until a successor has been appointed and qualifies. The members appointed to the initial governing board of a multicounty district, however, must be appointed to staggered terms determined according to the plan approved pursuant to section 50-01.1-03. Each member of the governing board shall qualify by taking the oath prescribed for civil officers and by filing the oath with the county auditor of the county of residence. Each sex must be fairly represented on the board, and each county must be represented on the board by at least one county commissioner of that county. Members shall elect from the governing board a president, a secretary, and other officers as the board determines necessary.

4. The appointing authority shall establish the rate of compensation for members of the governing board and actual expenses incurred by members may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 65. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Human service zone board.

1. A plan for the creation of a human service zone must describe the method of operation of the human service zone office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. The plan must provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the method of resolution of any disagreement between the boards of county commissioners involved in the human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded, terminated, or modified by the department through a process developed by the department.
2. ~~The governing board of the multicounty socialhuman service district annuallyzone director shall prepare a proposed budget for the districthuman service zone at the time and in the manner in which a county budget is adoptedas requested by the department and shall submit the department-approved proposed budget to the board of county commissioners of each county in the districthuman service zone for approvalreview. The board of county commissioners may not take any action to amend or modify the amount approved by the department. The board of county commissioners may make recommendations to the human service zone director and the department to amend or modify the amount proposed or budgeted. The amount budgeted and approved must be sufficient to defray the anticipated expenses of administration and the delivery of social and economic assistancehuman services, exclusive of grants, and must be prorated among the counties based on an agreed to cost distribution formula that takes into consideration such factors as caseload, population, taxable valuation, and geographical area of the respective counties comprising the district. Within ten days following approvalreview of the proposed budget by the boards of county commissioners, the governing board of the districthuman service zone director shall certify the budget to the respective county auditors of the counties in the district, and this amount must be included in the levies of the counties. Each~~

board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated indirect costs of county general assistance and that county's share of grants as provided under this title the human service zone. The amounts budgeted, reviewed, and approved by the several boards of county commissioners or the department, or both must be periodically deposited with the treasurer of the host county in which the district human service zone office is located, as requested by the treasurer, and must be placed in a special multicounty social human service district zone human services fund. The human service zone's income must be deposited into the human service zone human services fund by the treasurer of the host county. The governing human service zone board, or its president and secretary when authorized by the governing board, shall audit establish procedures for the review and approval of all claims against the human service zone human services fund. The governing board at its regularly scheduled meeting human service zone director or designee shall approve or ratify all claims against the human service zone human services fund. The county treasurer of the host county, shall pay approved or ratified claims from the human service zone human services fund. Unexpended human service zone human services funds remaining at the end of a fiscal year may be carried over to the next fiscal year. The department may recalculate and adjust each human service zone's formula payment biannually based on pertinent factors, which include actual expenditures over the prior or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload.

3. ~~The governing board of a multicounty social service district consists of not more than fifteen members, as determined by the plan. The plan must establish a method of determining the number of members that will be appointed by each county within the multicounty social service district. The method may consider the ratio that each county's population bears to the total population of the multicounty social service district, the ratio of current social service caseload, or other equitable factors; provided, that each county included in the district must be represented by at least one board member. The board of county commissioners of each county within the multicounty social service district shall make the appointments to the governing board. Members must be appointed for a term of three years or until a successor has been appointed and qualifies. The members appointed to the initial governing board of a multicounty district, however, must be appointed to staggered terms determined according to the plan approved pursuant to section 50-01.1-03. Each member of the governing board shall qualify by taking the oath prescribed for civil officers and by filing the oath with the county auditor of the county of residence. Each sex must be fairly represented on the board, and each county must be represented on the board by at least one county commissioner of that county. Members shall elect from the governing board a president, a secretary, and other officers as the board determines necessary.~~
4. ~~The appointing authority shall establish the rate of compensation for members of the governing board and actual expenses incurred by members may be reimbursed at the official reimbursement rates of the appointing authority.~~

SECTION 66. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Duties of human service zone.

The human service zone shall, under the direction and supervision of the department, unless otherwise directed or determined by the department:

1. Supervise and direct all human services activities conducted by the human service zone, including general assistance or other public assistance.
2. Supervise and administer human services in the human service zone which are financed in whole or in part with funds allocated or distributed by the department.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human services activities within the human service zone by private as well as public organizations.
4. Subject to subsection 16 of section 50-06-05.1, administer the supplemental nutrition assistance program in the human service zone in conformity with the Food Stamp Act of 1964, and enter an agreement for administering the supplemental nutrition assistance program with the department.
5. Subject to subsection 18 of section 50-06-05.1, administer the home energy assistance program in the human service zone and enter an agreement for administering the home energy assistance program with the department.
6. Charge and collect fees and expenses for services provided by the human service zone's staff in accordance with policies and fee schedules adopted by the department.
7. Supervise and administer designated child welfare services.
8. Supervise and administer human services.
9. Supervise and administer replacement programs with substantially similar goals, benefits, or objectives.
10. If applicable, supervise and administer experimental, pilot, statewide, regional, or transitional programs under the director of the department and with the goals of enhancing quality, effectiveness, and efficiency of programs and services.
11. Cooperate with the department or other human service zones in revising human service zone operations to reflect department guidelines or best practices that may be based on recommendations from experimental or pilot programs.
12. Cooperate with any other human service zone to assure the conduct of initial and ongoing human services with respect to any applicant or eligible beneficiary who is physically present in a human service zone other than the human service zone of which the applicant or eligible beneficiary is a resident.
13. Employ a human service zone director who shall serve as the presiding officer of the human service zone board.
14. Collaborate with the department and other human service zones to ensure the provision of quality, effective, and efficient human services to the citizens of North Dakota.

SECTION 67. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Human service zone directors.

Human service zone directors:

1. Must be employees of the human service zone and located within the human service zone, unless serving more than one human service zone.
2. Shall serve as the presiding officer of the human service zone board.
3. May serve one or more human service zones.
4. May hire, take disciplinary actions, and direct the work of a human service zone team member in accordance with the department's policies. The human service zone director has discretion to hire or separate from employment a human service zone team member, on behalf of the human service zone board, subject to the allotted number of approved and funded staff positions by the department.
5. Shall notify the department and appropriate host county staff, as directed by the county commissioners, regarding the hiring, dismissal, demotion, suspension without pay, forced relocation within the human service zone, reduction-in-force, or reprisal of a human service zone team member.
6. May notify county commissioners, the human service zone board, or other appropriate county staff regarding transfers of staff between the county and the department.
7. Shall establish, as agreed upon by the department, equitable compensation and salary increases for all human service zone team members within established appropriation.
8. Shall develop a budget for the human service zone in partnership with the department and other human service zone directors to ensure the administration of human services.
9. May serve as a designee of the department to supervise department employees assigned to or located within the human service zone.
10. Are the custodian designees of the executive director of the department for any child in the custody of the department.

SECTION 68. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Human service zone and department may contract.

A human service zone and department may contract with another human service zone or any other public or private person to discharge any of its duties or exercise any of its powers to administer human services.

SECTION 69. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Standards of administration - Action upon failure to administer.

1. The department shall adopt standards for administration for human services and shall provide training for the implementation of those standards. Each human service zone shall provide for administration of human services that meet those standards.
2. The department shall develop a system of progressive discipline to address performance issues within the human service zone. The system shall reserve the most serious actions for severe or chronic failure to meet the standards adopted under subsection 1.
3. The department shall provide ongoing performance notifications to the human service zone board and human service zone director related to the overall compliance with the standards of administration.
4. If a human service zone fails to provide for administration of human services that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the human service zone to prepare and implement a corrective action plan.
 - c. Terminate or modify a human service zone agreement, or plan which may include requiring the reconstituting of the human service zone board or rehiring of a human service zone director as part of a new or modified agreement or plan.
 - d. Recalculate and adjust the human service zone's formula payments.
 - e. Recommend disciplinary action to the human service zone director or the human service zone board.

SECTION 70. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Human service zone director hiring.

The department must be an active participant in the hiring process of the human service zone director and shall designate at least two individuals to participate on the interview panel. The department shall approve or disapprove of the recommendation for the human service zone director from the human service zone board and interview panel before the human service zone board takes action to hire the human service zone director.

SECTION 71. AMENDMENT. Section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-00.1. Definitions.

In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
2. ~~"Local expenses of administration" includes costs for personnel, space, equipment, computer software, materials, travel, utilities, and related costs,~~

and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the temporary assistance for needy families program, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.

3. "~~Locally administered economic assistance programs~~" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
- a. ~~Temporary assistance for needy families;~~
 - b. ~~Employment and training programs;~~
 - c. ~~Child care assistance programs;~~
 - d. ~~Medical assistance, including early periodic screening, diagnosis, and treatment;~~
 - e. ~~Supplemental nutrition assistance programs, including employment and training programs;~~
 - f. ~~Refugee assistance programs;~~
 - g. ~~Basic care services;~~
 - h. ~~Energy assistance programs; and~~
 - i. ~~Information and referral.~~
2. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

SECTION 72. AMENDMENT. Section 50-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-01. County ~~social~~Human service zone board - Members - Qualifications.

Each board of county commissioners shall establish a county social service board consisting of five, seven, or nine members of which one or more must be members of the board of county commissioners. The board of county commissioners of each county within the human service zone shall appoint the appointed members of the county social human service zone board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. The board must include members of each Appointed members of the human service zone board must consist of local elected officials and other key community partners. Each sex county must be represented on the human service zone board by at least one county commissioner of that county. Appointed members shall elect a vice presiding officer and appoint a secretary, and other officers as the human service zone board determines necessary. The human service zone director shall serve as presiding officer of the human service zone board as a nonappointed member.

SECTION 73. AMENDMENT. Section 50-01.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-02. Members of ~~county social~~human service zone board - Term of office - Oath - Compensation.

The appointed members of the ~~county social~~human service zone board serve a term of three years or until their successors have duly qualified. ~~Terms of office must be arranged so the term of office of one member expires in one year, the term of one-half the remaining members the next year, and the term of the remaining members the third year.~~The members appointed to the initial human service zone board of a human service zone, however, must be appointed to staggered terms determined according to the plan approved pursuant to section 50-01.1-03. Each appointed member of the human service zone board ~~qualifies~~shall qualify by taking the oath provided for civil officers. The oath must be filed with the county auditor of the county of residency. The appointing authorityhuman service zone shall establish ~~the rate of compensation for~~compensate appointed members of the human service zone board membersat a rate established by the host county commission, upon consultation with the other county commissions in the human service zone, consistent with the rate of compensation for members of other appointed boards within the member counties and not to exceed the compensation and expense reimbursement of members of the legislative assembly. The human service zone shall also pay members for mileage and actual expenses incurred by board members may be reimbursed at the official reimbursement rates of the appointing authorityin attending meetings and in other performance of official duties of the members in the amounts provided by law for other state officers.

SECTION 74. AMENDMENT. Section 50-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-03. Duties of ~~county social~~human service zone board.

The ~~county social~~human service zone board of each county in this state shall:

1. ~~Supervise and direct all human service activities conducted by the county including county general assistance or other public assistance.~~Provide information to the department relative to the community needs of the human service zone residents and advocate to meet those needs.
2. ~~Supervise and administer, under the direction and supervision of the department of human services, human services in the county which are financed in whole or in part with funds allocated or distributed by the department of human services.~~Review services and programs provided by the human service zone and make periodic recommendations for improvement in services, programs, or facilities.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human service activities within the ~~county~~human service zone by private as well as public organizations.
4. Subject to subsection 16 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 Establish procedures for the review and approval of all claims against the human service zone human services fund.

- ~~5. Subject to subsection 18 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.~~
- ~~6. Charge and collect fees and expenses for services provided by its staff in accordance with policies and fee schedules adopted by the department of human services.~~
- ~~7. Supervise and administer designated child welfare services under the direction and supervision of the department of human services. Through established procedures the department of human services may release the county social service board of this duty or the county social service board may request to be released from this duty by the department of human services. If a county is released from the county's duty to supervise and administer designated child welfare services under this subsection, the county retains its financial responsibility for providing those services unless otherwise negotiated and approved by the department.~~
5. Supervise and take other personnel actions related to the human service zone director with direct consultation and involvement from the department. Hire the human service zone director with the express approval of the department. Employment must be consistent 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. A human service zone director must be hired by April 1, 2020.
6. Hear and act on employee grievances in accordance with the human service zone plan and in compliance with merit system requirements.

SECTION 75. AMENDMENT. Section 50-01.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-03.2. County duties. (Effective through July 31, 2019)

Each county social service board shall administer, under the direction and supervision of the department:

1. Locally administered economic assistance and social service programs;
2. Replacement programs with substantially similar goals, benefits, or objectives; and
3. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.

County duties –Financing in exceptional circumstances. (Effective after July 31through December 31, 2019)

4. Each county social service board shall administer, under the direction and supervision of the department:

- a.1. Locally administered economic assistance and social and human services programs;
 - b.2. Replacement programs with substantially similar goals, benefits, or objectives; and
 - e.3. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.
2. ~~From the abstract of tax list prepared pursuant to section 57-20-04, each county shall annually provide the department of human services a report of the total mills levied for human service purposes pursuant to sections 50-03-01, 50-03-06, and 50-06-2-05, and the countywide value of a mill in each county. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:~~
 - a. ~~Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;~~
 - b. ~~Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;~~
 - c. ~~Totaling the amounts determined under subdivision b for all counties entitled to a distribution;~~
 - d. ~~Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and~~
 - e. ~~Multiplying that decimal fraction times one-half of the biennial appropriation.~~
 3. ~~Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which the percentage of that county's average total supplemental nutrition assistance program caseload for the previous fiscal year which reside on federally recognized Indian reservation lands is ten percent or more. The reimbursement must be such that:~~
 - a. ~~An affected county's actual direct costs and indirect costs allocated based on a percentage of each county's direct economic assistance and social services costs for locally administered economic assistance programs will be reimbursed at the percentage of that county's average total supplemental nutrition assistance program caseload for the previous state fiscal year which reside on federally recognized Indian reservation land not to exceed ninety percent;~~
 - b. ~~The affected counties will receive quarterly payments based on the actual county direct and indirect costs, as provided in subdivision a, for the previous state fiscal year;~~

- e. ~~At the end of each fiscal year the actual quarterly payments paid must be reconciled to the current year of calculation of actual direct and indirect costs as provided in subdivision a and supplemental nutrition assistance program caseload and counties must be compensated accordingly in the first quarter of the new fiscal year; and~~
- d. The reimbursement will be calculated for each county and reported to the county social service board prior to September first.

SECTION 76. AMENDMENT. Section 50-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-04. Removal of members of the human service zone board.

The appointing board of county commissioners may adopt a resolution to remove ~~an appointed~~ member of the county ~~social~~ human service zone board without cause. The board of county commissioners may not remove the human service zone director as presiding officer of the human service zone board.

SECTION 77. AMENDMENT. Section 50-01.2-05 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-05. Actions and proceedings - Duty of state's attorney.

Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance or general assistance must be brought by or against the county in its corporate name or human service zone. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01.

¹⁶⁰ **SECTION 78. AMENDMENT.** Subsection 4 of section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

- 4. "Human services" means services:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical services programs, and aging services programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.

SECTION 79. AMENDMENT. Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

¹⁶⁰ Section 50-06-01 was also amended by section 2 of Senate Bill No. 2198, chapter 392.

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 early childhood programs, ~~services to unmarried parents~~, refugee services, in-home community-based services, quality control, 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 foster care homes, and the committee on aging.
 - d. Administration of behavioral health programs, including:
 - (1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and
 - (2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
 - e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child ~~support~~care assistance, refugee assistance, work experience, work incentive, and quality control.
 - f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.
 - g. Administration of general assistance.
 - h. Administration of child support.

2. The executive director shall consult with and maintain a close working relationship with the state department of health; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with ~~county socialhuman service agencieszones~~.
3. By August 1, 2019, the department shall establish a template for the development of human service zone plans, including process and content requirements, access point expectations, client grievances procedures, human resources, and locally funded programs or services and how those services will be addressed.
4. The department shall develop, with assistance from the North Dakota association of counties, a process for consultation and technical assistance for human service zone working groups by August 1, 2019.

¹⁶¹ **SECTION 80. AMENDMENT.** Section 50-06-01.9 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.9. Criminal history record checks.

In accordance with section 12-60-24, the department may require criminal history record checks as the department determines appropriate for:

1. Job applicants of the department and employees of the department upon hiring;
2. Job applicants of the ~~county socialhuman service agencieszone~~ and the department's and ~~county socialhuman service agencies'zones'~~ contractors and contractors' subcontractors that may have access to federal tax information received from the United States internal revenue service through a computer match and stored in the department's eligibility system;
3. A criminal history record check conducted under subsections 1 and 2 is valid for ten years, after which the department shall require another criminal history record check on employees of the department, ~~county socialhuman service agencieszones~~, and the department's and ~~county socialhuman service agencies'zones'~~ contractors and contractors' subcontractors that may have access to federal tax information received from the United States internal revenue service through a computer match and stored in the department's eligibility system;
4. Providers licensed by the department under chapter 50-12, as well as for any employees of those providers;
5. Providers holding, applicants for, and emergency designees and staff members of providers holding and applicants for early childhood services licensure, self-declaration, or in-home provider registration under chapter 50-11.1. The department also may require criminal history record checks for

¹⁶¹ Section 50-06-01.9 was also amended by section 1 of House Bill No. 1115, chapter 408.

household members of a residence out of which early childhood services within the provider's home are provided; and

6. Medicaid services applicant providers, Medicaid services providers, staff members of the applicant provider or provider, or an individual with a five percent or more direct or indirect ownership interest in the applicant provider or provider under chapter 50-24.1.

¹⁶² **SECTION 81. 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, human service zones, or otherwise as directed by ~~it~~ the department:

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 human services related legislation to the legislative assembly.
8. To direct and supervise ~~county social~~ human service board ~~zone~~ activities as may be financed in whole or in part by or with funds allocated or distributed by the department and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.

¹⁶² Section 50-06-05.1 was also amended by section 4 of House Bill No. 1102, chapter 404, section 10 of Senate Bill No. 2055, chapter 438, section 11 of Senate Bill No. 2055, chapter 438, and section 1 of Senate Bill No. 2313, chapter 394.

9. 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.
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 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.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
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.
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~~human 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.
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.
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.
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~~human service zone 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. The department may not 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)].

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.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise county human service zone 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.
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.
20. To exercise and carry out any other powers and duties granted the department under state law.
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.
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.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by 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.
24. To provide those services necessary for the department and for ~~county-social~~ human service ~~boards~~ zones 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.
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.
26. ~~Notwithstanding section 50-01.2-00.1, to~~ To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

27. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
28. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.

SECTION 82. AMENDMENT. Subsection 3 of section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

3. Each human service center must have a human services advisory group consisting of the ~~county social~~ human service zone directors of the region served, the public health directors of the region served, two current county commissioners appointed by the executive director of the department, and five additional members appointed by the executive director of the department. Each advisory group member must be a resident of the region the member is appointed to serve. The term of office for each appointed member is two years and arranged so that the term of three of the appointed members expires at the end of the first year and the term of the remaining four appointed members expires at the end of the second year, except for those first members appointed, three members shall serve a one-year term and four members shall serve a two-year term. The director shall select the appointed members of each human service advisory group on the basis of population of the counties in the region served by the human service center. Each county in the region must be represented by at least one member on the human service advisory group. To the extent possible, appointed membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and substance use disorders. The executive director of the department shall appoint a chairman for each advisory group from the membership of the advisory group. The executive director of the department shall fill a vacancy occurring within an advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate appointed members of a human service advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

SECTION 83. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume costs of economic assistance and social service programs. (Effective through December 31, 2019)

The department of human services shall pay each service area's expenses for administering economic assistance and social service programs for calendar years after December 31, 2017, based on the formula payment amount calculated for each service area under chapter 50-34.

~~Department to assume certain costs of certain social service programshuman services. (Effective after December 31, 2019) Notwithstanding section 50-06-2-05, or any other provision in title 50 to the contrary, and in addition to~~

~~the programs identified in section 50-06-20, the~~The department of human services shall pay the local expenses of administration incurred by a county~~each human service zone's expenses for administering human services for calendar years after December 31, 2019, for family preservation programs; a county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program incurred after December 31, 2019; and the computer processing costs incurred by the county after December 31, 2019, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996~~based on the formula payment amount calculated for each human service zone under chapter 50-35. The executive director of the department shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county or human service zone, or for a new service or program based on federal or state law.

SECTION 84. AMENDMENT. Section 50-06-06.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.

Within the limits of legislative appropriation therefor and in accordance with rules established by the department, the department may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible individuals by regional human service centers or designated behavioral health providers. Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in regional human service centers and that federal funds available under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable ~~social~~human services furnished to eligible individuals by ~~county social~~human service ~~boards~~zones and regional human service centers.

SECTION 85. AMENDMENT. Section 50-06-06.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.5. Continuum of services for individuals with serious and persistent mental illness.

1. The department of human services shall develop a plan for an integrated, multidisciplinary continuum of services for individuals with serious and persistent mental illness. The continuum may consist of an array of services provided by private mental health professionals, private agencies, ~~county social~~human service agencies~~zones~~, human service centers, community-based residential care and treatment facilities, and private and public inpatient psychiatric hospitals. When appropriate, access to the continuum must be through human service centers. Within the limits of legislative appropriations, the plan for a continuum may include:
 - a. Programs, and appropriate related facilities, to provide socialization skills.
 - b. Programs, and appropriate related facilities, to provide basic living skills.

- c. Appropriate residential facilities and other housing options.
 - d. Appropriate training, placement, and support to enhance potential for employment.
 - e. Appropriate delivery and control of necessary medication.
 - f. Appropriate economic assistance.
 - g. An inpatient facility with appropriate programs to respond to persons who require hospitalization.
 - h. Peer and recovery support.
 - i. Crisis service that is available twenty-four hours a day seven days a week.
2. The continuum of care must provide that a person requiring treatment be submitted to the least restrictive available conditions necessary to achieve the purposes of treatment. The department shall ensure appropriate cooperation with ~~county social~~ human service ~~agencies~~ zones and private providers in achieving the continuum of care.

SECTION 86. AMENDMENT. Section 50-06-06.14 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.14. Placement of children - Least restrictive care.

The department and ~~county social~~ human service ~~boards~~ zones shall explore the option of kinship care ~~when~~ ^{if} a child is unable to return home due to safety concerns. Absent kinship options, the department and ~~county social~~ human service ~~boards~~ zones 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].

SECTION 87. AMENDMENT. Section 50-06-12 of the North Dakota Century Code is amended and reenacted as follows:

50-06-12. County Human service zone bound by reciprocal agreements of department - Duty of state and ~~county~~ human service zone when person determined not entitled to support.

Any agreement made by the department under the provisions of section 50-06-11 for the acceptance, transfer, and support of any person from another state is binding on the ~~county~~ human service zone where such person is residing. Neither this state nor any ~~county~~ human service zone in this state shall be committed to the support of any person who is held by the department not to be entitled to public support under the laws of this state.

SECTION 88. AMENDMENT. Section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

50-06-20. Programs funded at state expense - Interpretation.

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 18 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. Human services provided by the human service zones or the department;
 - g. General assistance under chapter 50-01;
 - h. Special projects approved by the department and agreed to by any affected county social human service board zone; and
 - i. Programs and services unique to the human service zone which have been included in the approved human service zone plan.
2. The state shall bear the costs of amounts expended for service payments for elderly and disabled and expanded service payments for elderly and disabled.
 3. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

SECTION 89. AMENDMENT. Section 50-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-01. Purpose - Interpretation.

It is the purpose of this chapter to establish a system for planning, coordinating, and providing comprehensive human services administered by county social human service boards zones and human service centers. This chapter must be construed to effectuate the following public purposes:

1. To help individuals or their families to achieve, maintain, or support the highest attainable level of personal independence and economic self-sufficiency.
2. To prevent, remedy, or alleviate neglect, abuse, or exploitation of children and adults unable to protect their own interests.
3. To provide a continuum of community-based services adequate to appropriately sustain individuals in their homes and in their communities and to delay or prevent institutional care.
4. To preserve, rehabilitate, and reunite families.
5. To assist in securing referral or admission of individuals to institutional care when other forms of care are not appropriate.

SECTION 90. AMENDMENT. Section 50-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-02. Definitions.

As used in this chapter:

1. "Comprehensive human services" means services included in the comprehensive human services plan published by the state agency and human services required by state law or state agency regulation or federal law or regulation as a condition for the receipt of federal financial participation in programs administered under the provisions of this title.
2. ~~"County agency" means the county social service board in each county of the state.~~
3. ~~"County plan" means the county human services plan required by section 50-06.2-04.~~
4. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.
- 5-3. "Human service center" means a regional center established under section 50-06-05.3.
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the state agency.
5. "Human service zone plan" means the human service zone plan required by section 50-06.2-04.
6. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
- 6-7. ~~"Qualified service provider" means a county agency~~ human service zone or independent contractor which agrees to meet standards for service and operations established by the state agency.
- 7-8. "State agency" means the department of human services.

SECTION 91. AMENDMENT. Section 50-06.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-03. Powers and duties of the state agency.

The state agency has the following powers or duties under this chapter:

1. To act as the official agency of the state in the administration of the human services ~~programs~~ for individuals and families in conformity with state and federal requirements.
2. To prepare, at least biennially, a comprehensive human services plan which must:
 - a. Include human services determined essential in effectuating the purposes of this chapter.
 - b. Detail the human services identified by the state agency for provision by human service centers and the services which the ~~county agencies have agreed to~~ human service zones make available in approved ~~county~~ human service zone plans as a condition for the receipt of any funds allocated or distributed by the state agency.
3. To make available, through ~~county agencies~~ human service zone or human service centers, any or all of the services set out in the comprehensive human services plan on behalf of those individuals and families determined to be eligible for those services under criteria established by the state agency.
4. To supervise and direct the comprehensive human services administered by ~~county agencies~~ human service zone and human service centers through standard-setting, technical assistance, approval of ~~county~~ human service zone and regional plans, preparation of the comprehensive human services plan, evaluation of comprehensive human services ~~programs~~, and distribution of public money for services.
5. Within the limits of legislative appropriations and at rates determined payable by the state agency, to pay qualified service providers, which meet standards for services and operations, for the provision of the following services as defined in the comprehensive human services plan which are provided to individuals who, on the basis of functional assessments, income, and resources, are determined eligible for the services in accordance with rules adopted by the state agency:
 - a. Homemaker services;
 - b. Chore services;
 - c. Respite care;
 - d. Home health aide services;
 - e. Case management;
 - f. Family home care;
 - g. Personal attendant care;

- h. Adult family foster care; and
 - i. Such other services as the state agency determines to be essential and appropriate to sustain individuals in their homes and in their communities and to delay or prevent institutional care.
6. To take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.

For purposes of this chapter, resources do not include the individual's primary home and the first fifty thousand dollars of liquid assets.

SECTION 92. AMENDMENT. Section 50-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-04. Powers and duties of county agencies. (Effective through December 31, 2019)

Each county agency has the following powers and duties under this chapter:

1. To administer comprehensive human services programs for individuals and families at the county level in conformity with state and federal requirements under the direction and supervision of the state agency.
2. To publish and provide to the state agency a county human services plan which must include the following:
 - a. A statement of the goals of county human services programs in the county.
 - b. Methods used to identify persons in need of services and the social problems to be addressed by the county human services programs.
 - c. A description of each county human service proposed and identification of the agency or person proposed to provide the service.
 - d. The amount of money proposed to be allocated to each service.
 - e. An agreement to make available those human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title.

The date of submission of the county human services plan to the state agency must be determined so that the plan is coordinated with the proposed and final comprehensive human services plan.

3. To make available the human services detailed in the comprehensive human services plan which the county agency has included in the approved county plan and to provide such other human services as the county agency determines essential in effectuating the purposes of this chapter within the county. To the extent funding is available under section 50-06.2-03 and chapter 50-24.1, the county plan must include the services enumerated in those sections. The county agency shall make these services available to any individual requesting service and determined eligible on the basis of a functional assessment conducted in accordance with state and federal laws and regulations. The individual shall pay for the services in accordance with a

fee scale based on family size and income. The county agency may contract with any qualified service provider in its provision of those enumerated services.

4. To submit annually to the board of county commissioners a budget containing an estimate and supporting data, setting forth the funds needed to carry out the provisions of this chapter.

Powers and duties of county agencies human service zones. (Effective after December 31, 2019) Each ~~county agency~~ human service zone has the following powers and duties under this chapter:

1. To administer comprehensive human services ~~programs~~ for individuals and families at the ~~county~~ human service zone level in conformity with state and federal requirements under the direction and supervision of the state agency.
2. To publish and provide to the state agency a ~~county human services~~ service zone plan ~~which that~~ must include the following:
 - a. A statement of the goals of ~~county~~ human service zone human services ~~programs~~ in the ~~county~~ human service zone.
 - b. Methods used to identify persons in need of services and the social problems to be addressed by the ~~county~~ human service zone human services ~~programs~~.
 - c. A description of each ~~county~~ human service zone human services ~~services~~ proposed and identification of the agency or person proposed to provide the service.
 - d. The amount of money proposed to be allocated to each service.
 - e. An agreement to make available those human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by ~~county agencies~~ human service zones under the provisions of this title.

The date of submission of the ~~county human services~~ service zone plan to the state agency must be determined so that the plan is coordinated with the proposed and final comprehensive human services ~~service zone~~ plan.

3. To make available the human services detailed in the comprehensive human services ~~service zone~~ plan which the ~~county agency~~ human service zone has included in the approved ~~county~~ human service zone plan and to provide such other human services as the ~~county agency~~ human service zone determines essential in effectuating the purposes of this chapter within the ~~county~~ human service zone. To the extent funding is available under section 50-06.2-03 and chapter 50-24.1, the ~~county~~ human service zone plan must include the services enumerated in those sections. The ~~county agency~~ human service zone shall make these services available to any individual requesting service and determined eligible on the basis of a functional assessment conducted in accordance with state and federal laws and regulations. The individual shall pay for the services in accordance with a fee scale based on family size and income. The ~~county agency~~ human service zone may contract with any qualified service provider in its provision of those enumerated services.

4. To submit annually to the board of county commissioners a budget, approved by the state agency, containing an estimate and supporting data, setting forth the ~~county~~ funds needed to carry out the provisions of this chapter.

SECTION 93. AMENDMENT. Section 50-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-06. Freedom of choice.

Each person eligible for services under this chapter, or the person's representative, must be free to choose among available qualified service providers that offer competitively priced services. The ~~county agency~~ human service zone shall inform each eligible applicant for services, provided under this chapter, of the identity of qualified service providers available to provide the service required by the applicant. The ~~county agency~~ human service zone shall make and document reasonable efforts to inform potential service providers of the anticipated need for services in the ~~county~~ human service zone.

SECTION 94. AMENDMENT. Section 50-09-01 of the North Dakota Century Code is amended and reenacted as follows:

50-09-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, share account, share draft account, savings account, time deposit account, securities account, money market mutual fund account, or any other account or arrangement that reflects an owner's share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, to the extent the owner is permitted to redeem the share or interest by an order for payment to a third party.
2. "Assistance" means money payments with respect to, or goods and services provided for dependent children, including payments for the care of unmarried mothers or fathers and their infants.
3. "Child support" has the meaning provided in section 14-09-09.10.
4. "~~County agency~~" means ~~the county social service board in each of the counties of the state.~~
5. "Dependent child" means any needy child who is described in a state plan for aid and services to needy families submitted pursuant to title IV-A.
- 6-5. "Financial institution" means:
 - a. A depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)];
 - b. An institution-affiliated party, as defined in section 3(u) of the Federal Deposit Insurance Act [12 U.S.C. 1813(u)];
 - c. Any federal credit union or state credit union, as defined in section 101 of the Federal Credit Union Act [12 U.S.C. 1752], including an

institution-affiliated party of such a credit union, as defined in section 206(r) of the Federal Credit Union Act [12 U.S.C. 1786(r)]; and

- d. Any benefit association, insurance company, safe deposit company, securities intermediary, money market mutual fund, or similar entity authorized to do business in the state.
6. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the state agency.
7. "Obligor" has the meaning provided in section 14-09-09.10.
8. "Past-due support" has the meaning provided in section 14-09-09.10.
9. "Secretary" means the secretary of the United States department of health and human services.
10. "Securities account" has the meaning provided in section 41-08-41.
11. "Securities intermediary" has the meaning provided in section 41-08-02, but does not include a clearing corporation.
12. "State agency" means the North Dakota department of human services.
13. "Title IV-A" means title IV-A of the Social Security Act, as adopted by title I of Pub. L. 104-193 [110 Stat. 2110 et seq.; 42 U.S.C. 601 et seq.].
14. "Title IV-B" means title IV-B of the Social Security Act [Pub. L. 90-248, title II, sec. 240(c); 81 Stat. 911; 42 U.S.C. 620 et seq.], as amended.
15. "Title IV-D" means title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].
16. "Title IV-E" means title IV-E of the Social Security Act [Pub. L. 96-272, title I, sec. 101(a)(1); 94 Stat. 501; 42 U.S.C. 670 et seq.], as amended.
17. "Work activity" means any activity permitted or required to be treated as work for purposes of calculating a work participation rate.

SECTION 95. AMENDMENT. Section 50-09-02 of the North Dakota Century Code is amended and reenacted as follows:

50-09-02. Duties of the state agency.

The state agency shall:

1. Take such action and adopt rules as may become necessary to entitle the state to receive funds from the federal government under title IV-A.
2. Supervise the administration of temporary assistance for needy families throughout the state of North Dakota.
3. Take such action, give such directions, and adopt rules as may be necessary or desirable to carry out the provisions of this chapter, including the adoption

and application of suitable standards and procedure to ensure appropriate treatment of all applicants for temporary assistance for needy families.

4. Cooperate with the federal government in matters of mutual concern pertaining to temporary assistance for needy families, including the adoption of such methods of administration as are found by the state agency to be appropriate for the efficient operation of the plan for such assistance.
5. Provide such qualified employees and representatives as may be necessary.
6. Prescribe the form of and print and supply to the ~~county agencies~~ human service zones blanks for applications, reports, and such other forms as it may deem necessary and advisable.
7. Have authority to establish and maintain personnel standards on a merit basis for personnel employed by the state and the ~~county public assistance agencies not covered by a statewide merit system~~ human service zone.
8. Make such reports in such form and containing such information as the federal government from time to time may require.
9. Make any determinations respecting title IV-A not expressly reserved to the federal government under federal law.
10. Determine if the terms of any waiver of federal requirements, pertaining to the aid to families with dependent children program, submitted to the federal government before August 22, 1996, are consistent with the requirements of title IV-A.
11. Determine the expenditures that constitute qualified state expenditures for purposes of this chapter.
12. Determine the costs that constitute administrative costs for purposes of this chapter.
13. Determine in any case if assistance provided will be funded through qualified state expenditures, funds made available from the federal government under title IV-A, or a combination thereof.
14. Assist recipients of temporary assistance for needy families, in a form and manner determined appropriate by the state agency, but which need not be uniform among families or among counties.
15. Administer all funds appropriated or made available to it for the purpose of carrying out the provisions of this chapter.
16. Act as the official agency of the state in the administration of the child support enforcement program and medical support enforcement program in conformity with title IV-D. In administering the child support enforcement and medical support enforcement programs, the state agency may contract with any public or private agency or person to discharge the state agency's duties and must maintain an office in each of the eight planning regions of the state.

17. Take actions and adopt rules necessary to entitle the state to receive funds from the federal government under the child care and development block grant [42 U.S.C. 9858 et seq.], as amended.
18. Have authority to establish a program for families that include both a minor child and an incapacitated parent of that minor child, using no federal funds derived from temporary assistance for needy families block grant funds, which otherwise functions in substantially the form and manner of the temporary assistance for needy families program.
19. For purposes of section 674(e)(2) of the Social Security Act [42 U.S.C. 674(e)(2)], approve families, outside of the jurisdiction of the state of North Dakota, for placement of children for adoption.
20. Act as the official agency of the state in the administration of child and family services in conformity with title IV-B and to direct and supervise county human service zone administration of that program, unless otherwise directed or determined by the state agency.
21. Act as the official agency of the state in the administration of federal payments for foster care and adoption assistance in conformity with title IV-E and to direct and supervise county human service zone administration of that program, unless otherwise directed or determined by the state agency.
22. Provide, upon request and insofar as staff resources permit, technical assistance concerning the requirements of title IV-B and title IV-E to courts within this state, including tribal courts, and to state's attorneys and tribal prosecutors within this state.
23. Make training available to state's attorneys and assistant state's attorneys who are willing to collaborate with colleagues in other counties on petitions to terminate parental rights.

¹⁶³ **SECTION 96. AMENDMENT.** Section 50-09-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-09-02.2. Assistance for adopted children with special needs.

Assistance provided under this chapter or chapter 50-24.1 after adoption to a child with special needs must be provided without regard to the income or resources of the adopting parents. Except as provided in this section, such assistance continues until the adopted child becomes eighteen years of age, is emancipated, or dies; the adoption is terminated; or a determination of ineligibility is made by the county human service zone or state agency, whichever occurs earlier. If sufficient funds are available, the county human service zone or state agency may continue assistance for an adopted child until the child reaches twenty-one years of age if the human service zone or state agency determines that the adopted child is a student regularly attending a secondary, postsecondary, or career and technical education school in pursuance of a course of study leading to a diploma, degree, or gainful employment. Assistance provided to an adopted child must continue regardless of the residence of the adopting parents. A~~The~~ state or county agency or human service zone may require, as a condition of receiving assistance under this chapter or chapter 50-24.1, that the adopting parents enter ~~into~~ a contract or agreement regarding the type of

¹⁶³ Section 50-09-02.2 was also amended by section 1 of Senate Bill No. 2112, chapter 402.

assistance to be received; the amount of assistance; the identity of the physical, mental, or emotional condition for which medical assistance is received; or any conditions for continued receipt of assistance. A child with special needs is a child legally available for adoptive placement whose custody has been awarded to the ~~department~~state agency or a ~~county social~~human service board~~zone~~ and who is seven years of age or older; under eighteen years of age with a physical, emotional, or mental disability or has been diagnosed by a licensed physician to be at high risk for such a disability; a member of a minority; or a member of a sibling group.

SECTION 97. AMENDMENT. Section 50-09-03 of the North Dakota Century Code is amended and reenacted as follows:

50-09-03. Duties of ~~county agency~~human service zone.

In the administration of assistance under this chapter, a ~~county agency~~human service zone shall, unless otherwise directed or determined by the state agency:

1. Administer the temporary assistance for needy families program in its ~~county~~human service zone, subject to the rules of the state agency.
2. Report to the state agency at such times and in such manner and form as the state agency, from time to time, may direct.
3. Submit annually, through the human service zone director, to the ~~board of county commissioners of each county~~state agency a budget containing an estimate and supporting data, setting forth the amount of money needed to carry out the provisions of this chapter.
4. Cooperate with juvenile courts and licensed children's agencies.
5. Administer child and family services under the direction and supervision of the state agency in conformity with title IV-B.
6. Administer federal payments for foster care and adoption assistance under the direction and supervision of the state agency in conformity with title IV-E.

SECTION 98. AMENDMENT. Section 50-09-04 of the North Dakota Century Code is amended and reenacted as follows:

50-09-04. Preservation and protection of religious faith.

The county, human service zone, and state agencies shall preserve and protect the religious faith of children coming under their jurisdiction.

SECTION 99. AMENDMENT. Section 50-09-06 of the North Dakota Century Code is amended and reenacted as follows:

50-09-06. Application for assistance.

Application for assistance under this chapter must be made to the ~~county~~human service zone or state agency in the manner and form prescribed by the state agency. The application must contain such information as the state agency may require, and the action of the state agency in approving and granting assistance or in disapproving and denying assistance is final and binding on the ~~county agency~~human service zone.

SECTION 100. AMENDMENT. Section 50-09-07 of the North Dakota Century Code is amended and reenacted as follows:

50-09-07. Investigation by ~~county~~human service zone or state agency.

~~Whenever~~When a ~~county~~human service zone or state agency shall receivereceives an application for assistance, or assistance has been granted, under this chapter, the ~~human service zone, unless otherwise directed or determined by the state agency,~~ promptly shall make an investigation and record of the circumstances of the applicant, or child, or both, in order to ascertain the facts supporting the application or the granting of assistance and shall obtain such other information as may be required by the rules and regulations of the state agency.

SECTION 101. AMENDMENT. Section 50-09-08 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08. Investigations - Power of ~~county agencies~~human service zone, state agency, and employees.

1. In the investigation of applications under the provisions of this chapter, the ~~county agencies~~human service zone, the state agency, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:
 - a. Conduct examinations;
 - b. Require the attendance of witnesses and the production of books, records, and papers; and
 - c. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.
2. The state agency may request from other state, county, human service zones, and local agencies information deemed necessary to carry out the child support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the state agency in locating absent parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the state agency with available information relative to the location, income, social security number, and property holdings of the absent parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the state agency who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.
3. The officers and employees designated by the ~~county agencies~~human service zones or the state agency may administer oaths and affirmations.

SECTION 102. AMENDMENT. Subsections 2, 3, and 4 of section 50-09-08.2 of the North Dakota Century Code are amended and reenacted as follows:

2. All information received under this section, if confidential under some other provision of law, is subject to the penalties under section 50-06-15 and is

confidential, except that the information may be used in the administration of any program administered by or under the supervision and direction of the ~~department~~state agency and as specifically authorized by the rules of the ~~department~~state agency. Any information received under this section, if not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota in the possession of the person providing the information, is exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. Any person acting under the authority of the state agency who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or otherwise provided by law.

3. a. As provided in title IV-D, a person is immune from suit or any liability under any federal or state law:
 - (1) For any disclosure of information, in any form, made under this section, to the state agency, a county agency, a human service zone, or an official, employee, or agent of either;
 - (2) For encumbering or surrendering any assets held by a financial institution in response to a notice of lien or an execution issued by the state agency as provided in section 28-21-05.2 and chapter 35-34; or
 - (3) For any other action taken in good faith to comply with the requirements of this section.
- b. The court shall award reasonable attorney's fees and costs against any person who commences an action that is subsequently dismissed by reason of the immunity granted by this section.
4. The officers and employees designated by the ~~county agencies~~human service zones or the state agency may administer oaths and affirmations.

SECTION 103. AMENDMENT. Section 50-09-08.3 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08.3. Administrative enforcement in interstate cases.

1. In acting as the official agency of the state in administering the child support program under title IV-D, the state agency, directly or through agents and ~~county agencies~~human service zones:
4. a. Shall use high-volume automated administrative enforcement, to the same extent as used in intrastate cases, in response to a request made by another state to enforce a child support order, and shall promptly report the results of such enforcement procedure to the requesting state;
2. b. May transmit requests, by electronic or other means, to other states for assistance in cases involving enforcement of child support orders which include information provided and intended to enable the receiving state to compare information about the case to information in the databases of the receiving state, and which constitute a certification:
 - a. (1) Of the amount of arrearages, if any, under the child support order; and

- b. (2) That procedural due process requirements applicable to the case have been complied with;
- 3. c. In cases in which the state agency receives requests made by another state to enforce a child support order, shall not consider that matter a child support case transferred to this state, but may establish a corresponding case based on the other state's request for assistance; and
- 4. d. Shall maintain records of:
 - a. (1) The number of requests for assistance made by other states;
 - b. (2) The number of cases in which this state collected support in response to requests made by other states; and
 - e. (3) The amount of support collected.
- 2. For purposes of this section, the term "high-volume automated administrative enforcement" means, in interstate cases, on request of another state, the identification, by this state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in another state, and the seizure of such assets, by this state, through levy or other appropriate processes.

SECTION 104. AMENDMENT. Section 50-09-08.4 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08.4. Reporting arrearages to credit bureaus.

1. In acting as the official agency of the state in administering the child support program under title IV-D, the state agency, directly or through agents and ~~county agencies~~human service zones, subject to subsection 2, may report periodically to consumer reporting agencies the name of any obligor who owes past-due support and the amount of past-due support owed by the obligor.
2. The state agency may report under subsection 1 only after such an obligor has been provided notice and a reasonable opportunity to contest the accuracy of the statement of the name and amount of overdue support owed by the obligor.
3. For purposes of this section, "consumer reporting agency" means an agency that has furnished evidence, satisfactory to the ~~department~~state agency, that the agency is a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act [15 U.S.C. 1681a(f)].

SECTION 105. AMENDMENT. Section 50-09-09 of the North Dakota Century Code is amended and reenacted as follows:

50-09-09. Award of assistance.

1. Upon completion of the investigation of an applicant for assistance under this chapter, the ~~county~~human service zone or state agency shall determine, in accordance with the rules of the state agency:

1. a. If the applicant may be provided assistance under the provisions of this chapter;
 2. b. The amount and type of any assistance the applicant may receive; and
 3. c. The date upon which such assistance may begin.
2. In all cases, a statement of the findings of the ~~county agency~~ human service zone forthwith must be transmitted to the state agency.

SECTION 106. AMENDMENT. Subsection 1 of section 50-09-14 of the North Dakota Century Code is amended and reenacted as follows:

1. An applicant for or recipient of temporary assistance for needy families under this chapter, aggrieved because of a ~~county~~ human service zone's or state agency's decision or delay in making a decision, may appeal to the state agency in the manner prescribed by the state agency and must be afforded a reasonable notice and opportunity for a fair hearing by the state agency. The state agency, on its own motion, may review individual cases and make determinations which are binding upon the ~~county agency~~ human service zone. An applicant or recipient aggrieved by any such determination, upon request, must be afforded reasonable notice and opportunity for a fair hearing by the state agency. All decisions of the state agency made on an appeal are final and are binding upon and must be complied with by the ~~county agency~~ human service zone.

SECTION 107. AMENDMENT. Section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

50-09-29. Requirements for administration of temporary assistance for needy families.

1. Except as provided in subsections 2, 3, and 4, the ~~department of human services~~ state agency, in its administration of the temporary assistance for needy families program, shall:
 - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt eligible households from the requirements of subdivision b due to mental or physical disability of a parent or child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;
 - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
 - e. Except as provided in subdivision j, and as required to allow the state to receive funds from the federal government under title IV-A, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996;

- f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the ~~department~~state agency;
- g. Exclude one motor vehicle of any value in determining eligibility;
- h. Require work activities for all household members not specifically exempted by the ~~department of human services~~state agency for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;
- i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;
- j. To the extent required to allow the state to receive funds from the federal government under title IV-A, provide benefits to otherwise eligible noncitizens who are lawfully present in the United States;
- k. Establish and enforce standards against program fraud and abuse;
- l. Provide employment placement programs;
- m. Exempt from assets and income the savings and proportionate matching funds in individual development accounts;
- n. Determine the unemployment rate of adults living in a county that includes Indian reservation lands and a significant population of Indian individuals by using unemployment data provided by job service North Dakota;
- o. When appropriate, require household members to complete high school;
- p. To the extent required to allow the state to receive funds from the federal government under title IV-A, exempt single parents from required work activities;
- q. Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- r. Provide for sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- s. Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- t. Require each household to participate in developing an individual employment plan and provide for sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate with the terms of the individual employment plan;

- u. Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
 - v. Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the probable month of the child's conception;
 - w. Disregard earned income as an incentive allowance for no more than twelve months; and
 - x. Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services that are not identical to benefits and services provided elsewhere.
2. If the secretary of the United States department of health and human services determines that funds otherwise available for the temporary assistance for needy families program in this state must be reduced or eliminated should the ~~department of human services~~state agency administer the program in accordance with any provision of subsection 1, the ~~department of human services~~state agency shall administer the program in a manner that avoids the reduction or loss.
 3. If the ~~department of human services~~state agency determines, subject to the approval of the legislative management, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities, the ~~department~~state agency may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
 4. If the ~~department of human services~~state agency determines, subject to the approval of the legislative management, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the ~~counties~~human service zones under chapter 50-01, the ~~department~~state agency may administer the program in a manner that avoids that result.
 5. The ~~department of human services~~state agency may not deny assistance 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 Substance Act [21 U.S.C. 802(6)].

SECTION 108. AMENDMENT. Section 50-09-30 of the North Dakota Century Code is amended and reenacted as follows:

50-09-30. Child support agencies exempt from certain fees.

The recorder and secretary of state may not charge or collect any fee otherwise prescribed by law from a state or ~~county agency~~human service zone engaged in the establishment of paternity or the establishment, modification, or enforcement of child support orders.

¹⁶⁴ **SECTION 109. AMENDMENT.** Subsection 2 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

2. "Authorized agent" means the ~~county social~~human service board~~zone~~, unless another entity is designated by the department.

¹⁶⁵ **SECTION 110. 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~~human service board~~zone~~, 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.
- ~~5.4.~~ "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
- ~~6.5.~~ "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.
- ~~7.6.~~ "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

¹⁶⁴ Section 50-11-00.1 was also amended by section 2 of House Bill No. 1099, chapter 405, and section 6 of House Bill No. 1102, chapter 404.

¹⁶⁵ Section 50-11.1-02 was also amended by section 1 of Senate Bill No. 2245, chapter 406.

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.

~~8-7.~~ "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.

~~9-8.~~ "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.

~~10-9.~~ "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.

10. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

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.
24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
25. "Staff member" means an individual:
 - a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration; or
 - b. Whose activities involve the care, supervision, or guidance of children for or unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

SECTION 111. AMENDMENT. Section 50-11.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11.2-01. Foster care parent grievance.

A foster parent who is duly licensed to care for a foster child may object to any decision made by the department of human services or ~~county social~~ human service ~~board~~ zone which substantially affects the foster parent or the needs of the foster child. An objection may be made in the form of a grievance, which must be filed in the county of the foster care parent's residence with the ~~county social~~ human service ~~board~~ zone. The ~~county social~~ human service ~~board~~ zone shall notify foster parents of the grievance procedure and provide them with grievance procedure forms.

SECTION 112. AMENDMENT. Section 50-11.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.2-02. Grievance procedure.

The grievance procedure to be followed by the department of human services, ~~county social~~human service ~~board~~zone, and foster parents is:

1. Any decision made by the department of human services or ~~county social~~human service ~~board~~zone which substantially affects the licensed foster parent or the needs of a foster child must be sent in writing to the foster parents who have been given the responsibility of providing foster care for that child. Nothing herein may be construed to prohibit the department of human services or ~~county social~~human service ~~board~~zone from immediately implementing a decision, when the best interests of the child require such immediate action, as long as notice is given to the foster parent as soon as possible.
2. A foster parent may object to any decision referred to in subsection 1. Upon the filing of a grievance by the foster care parents, the ~~county social~~human service ~~board~~zone shall schedule an informal meeting to be held within ten days of the filing of the grievance. The needs and responsibilities of all interested parties must be discussed at this meeting in an attempt to maintain a continuing relationship which will serve the best interests of the foster child. A written resolution relating to the grievance should be agreed to and signed by both parties.
3. If no written resolution between the parties relating to the grievance is made at the informal meeting, the foster parents may request a formal hearing to be held at the ~~regional foster care~~ conflict-free human service zone office. This meeting must be held within ten working days of the informal meeting unless both parties agree to an extension. The ~~regional foster care~~human service zone director or the director's designee shall provide for a record of this hearing. The ~~regional foster care~~human service zone director or the director's designee shall review all prior contact between the foster care parents and the department of human services or ~~county social service board~~human service zone relating to the grievance. The ~~regional foster care~~human service zone director or the director's designee shall then make a final determination relating to the grievance. The ~~regional foster care~~human service zone director's or the director's designee's findings and conclusions must be sent to the ~~county social~~human service ~~board~~zone and the foster care parents.
4. All decisions ~~of the regional foster care director~~ relating to a grievance under this chapter are final.
5. The department of human services shall adopt rules to carry out the purpose and intent of this section and these rules must be given to the foster parent upon licensing.
6. Denial or revocation of a foster care license may be appealed as provided in chapter 28-32.
7. Nothing herein may be construed to require a grievance proceeding under this chapter, when the department of human services or ~~county social~~human service ~~board~~zone is acting to implement a specific placement decision issued by a court with competent jurisdiction.

¹⁶⁶ **SECTION 113. AMENDMENT.** Section 50-24.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-03.1. Duties of ~~county agency~~human service zone and department.

In the administration of the medical assistance program, the department or a ~~county agency~~human service zone shall investigate and record the circumstances of each applicant or recipient of assistance, in order to ascertain the facts supporting the application, or the granting of assistance, and obtain such other information as directed by the department or as may be required by the rules and regulations of the department of human services.

¹⁶⁷ **SECTION 114. AMENDMENT.** Section 50-24.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-03.2. Investigations - Power of ~~county agencies~~human service zones, department, and employees.

1. In the investigation of applications under the provisions of this chapter, the county agencieshuman service zones, the department of human services, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:
 - a. Conduct examinations;
 - b. Require the attendance of witnesses and the production of books, records, and papers; and
 - c. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.
2. The department of human services may request from other state, county, human service zones, and local agencies information deemed necessary to carry out the medical support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the department of human services in locating absent spouses or parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the department with available information relative to the location, income, social security number, and property holdings of the absent spouse or parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the department of human services who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the medical support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.
3. The officers and employees designated by the county agencieshuman service zones or the department of human services may administer oaths and affirmations.

¹⁶⁶ Section 50-24.1-03.1 was also amended by section 16 of House Bill No. 1115, chapter 408.

¹⁶⁷ Section 50-24.1-03.2 was also amended by section 17 of House Bill No. 1115, chapter 408.

SECTION 115. AMENDMENT. Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.
2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
3. "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
4. "~~County agency~~" means ~~the county social service board~~.
5. "Department" means the department of human services.
- 6.5. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 7.6. "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
(2) Is at least eighteen years of age and is disabled or blind;
 - b. (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or
(2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02;
 - c. Meets the requirements of section 23-09.3-08.1;
 - d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and

- e. Is determined to be eligible pursuant to rules adopted by the department.
7. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
 8. "Institution" means a facility licensed under chapter 23-09.3.
 9. "Living independently" includes living in congregate housing. The term does not include living in an institution.
 10. "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.
 11. "Proprietor" means an individual responsible for day-to-day administration and management of a facility.
 12. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.
 13. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

SECTION 116. AMENDMENT. Subsection 1 of section 50-24.5-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Administer aid to vulnerable aged, blind, and disabled persons and supervise and direct ~~county agencies~~ human service zones in the administration of aid to vulnerable aged, blind, and disabled persons.

SECTION 117. AMENDMENT. Section 50-24.5-03 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-03. Powers and duties of ~~county agency~~ human service zone.

Each ~~county agency~~ human service zone, unless otherwise directed or determined by the department, shall:

1. Administer aid to aged, blind, and disabled persons at the ~~county~~ human service zone level under the direction and supervision of the department, pursuant to state requirements.
2. Provide the services described in this chapter.
3. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter.
4. Provide case management services to eligible beneficiaries.

5. Conduct initial and ongoing functional assessments of applicants in cooperation with basic care facilities.
6. Cooperate with any other ~~county agency~~ human service zone to assure the conduct of initial and ongoing functional assessments and determinations of eligibility with respect to any applicant or eligible beneficiary who is physically present in a ~~county~~ human service zone other than the ~~county~~ human service zone in which the applicant or eligible beneficiary is a resident for purposes of chapter 50-01.

SECTION 118. AMENDMENT. Section 50-24.5-07 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-07. Residency.

For purposes of this chapter:

1. A person is a resident of this state if:
 - a. The person is not living in an institution and is living in this state:
 - (1) With intent to remain in this state permanently or for an indefinite period; or
 - (2) Without intent if the person is incapable of stating intent.
 - b. The person is living in an institution outside this state and was receiving a benefit under chapter 50-01 on January 1, 1995.
 - c. The person was placed in an out-of-state institution by a ~~county agency~~ human service zone or the department while the person was incapable of indicating intent.
 - d. The person is living in an in-state institution, has lived in that institution for at least thirty days, and was not placed in that institution by another state. A person placed in an institution by another state is a resident of the state making the placement. Any action beyond providing information to the person and the person's family constitutes arranging or making a state placement. However, the following actions do not constitute state placement:
 - (1) Providing basic information about this chapter and information about the availability of this chapter; or
 - (2) Assisting a person in locating an institution in this state, if the person is capable of indicating intent and independently decides to move.
2. A person who is a resident of this state is a resident of the ~~county~~ human service zone in which the person is a resident for purposes of chapter 50-01.

SECTION 119. AMENDMENT. Section 50-24.5-09 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-09. Responsibility for expenditures.

~~Except as otherwise specifically provided in section 50-03-08,~~
expendituresExpenditures required under this chapter are the responsibility of the state of North Dakota.

SECTION 120. AMENDMENT. Section 50-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.7-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.
2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
3. "County agency" means the county social service board.
4. "Department" means the department of human services.
- ~~5-4.~~ "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- ~~6-5.~~ "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
(2) Is at least eighteen years of age and is disabled or blind;
 - b. Has applied for and is eligible to receive benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.];
 - c. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; or
 - (2) Is impaired in three of the four instrumental activities of daily living of preparing meals, doing homework, taking medicine, and doing laundry;
 - d. Has countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the personal needs allowance;
 - e. Has impairments that are not the result of an intellectual disability; and

f. Is determined to be eligible pursuant to rules adopted by the department.

- 7-6. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.
7. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
8. "Qualified service provider" means a ~~county agency~~ human service zone or independent contractor who agrees to meet standards for services and operations established by the department.
9. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.

SECTION 121. AMENDMENT. Subsection 1 of section 50-24.7-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The department shall administer expanded service payments for elderly and disabled and supervise and direct ~~county agencies~~ human service zones in the administration of expanded service payments for elderly and disabled.

SECTION 122. AMENDMENT. Section 50-24.7-03 of the North Dakota Century Code is amended and reenacted as follows:

50-24.7-03. Powers and duties of ~~county agency~~ human service zone.

Each ~~county agency~~ human service zone, unless otherwise directed or determined by the department, shall:

1. Administer expanded service payments for elderly and disabled at the ~~county~~ human service zone level under the direction and supervision of the department, pursuant to state requirements.
2. Provide the services described in this chapter. The ~~county agency~~ human service zone may contract with a qualified service provider in the provision of those services.
3. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter.
4. Provide case management services to eligible beneficiaries.
5. Conduct initial and ongoing functional assessments of applicants.

SECTION 123. AMENDMENT. Section 50-24.7-06 of the North Dakota Century Code is amended and reenacted as follows:

50-24.7-06. Responsibility for expenditures.

~~Except as otherwise specifically provided in section 50-03-08, expenditures~~Expenditures required under this chapter are the responsibility of the state of North Dakota.

¹⁶⁸ **SECTION 124. AMENDMENT.** Subsections 6 and 11 of section 50-25.1-02 of the North Dakota Century Code are amended and reenacted as follows:

6. "Authorized agent" means the ~~county social~~human service board~~zone~~, unless another entity is designated by the department.
11. "Local child protection team" means a multidisciplinary team consisting of the designee of the ~~director of the regional human service center~~human service zone director who shall serve as presiding officer, together with such other representatives as that director might select for the team ~~with the consent of the director of the county social service board~~. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department shall~~may~~ coordinate the organization of local child protection teams on a ~~county or multicounty~~human service zone basis.

SECTION 125. AMENDMENT. Section 50-25.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.3. Child fatality review panel - Duties.

The child fatality review panel shall meet at least semiannually to review the deaths and near deaths of all minors which occurred in the state during the preceding six months and to identify trends or patterns in the deaths and near deaths of minors. The panel may review near deaths alleged to have resulted only from child abuse and neglect. The panel shall promote:

1. Interagency communication for the management of child death cases and for the management of future nonfatal cases.
2. Effective criminal, civil, and social intervention for families with fatalities.
3. Intervention and counseling of surviving and at-risk siblings, and offer the same.
4. Interagency use of cases to audit the total health and social service systems and to minimize misclassification of cause of death.
5. Evaluation of the impact of specific risk factors including substance abuse, domestic violence, and prior child abuse.
6. Interagency services to high-risk families.

¹⁶⁸ Section 50-25.1-02 was also amended by section 1 of House Bill No. 1108, chapter 416, section 6 of House Bill No. 1520, chapter 256, section 8 of Senate Bill No. 2245, chapter 406, and section 3 of Senate Bill No. 2273, chapter 108.

7. Data collection for surveillance of deaths and the study of categories of causes of death.
8. The use of media to educate the public about child abuse prevention.
9. Intercounty, interhuman service zones, and interstate communications regarding child death.
10. Use of local child protection team members as local child fatality review panelists.
11. Information that apprises a parent or guardian of the parent's or guardian's rights and the procedures taken after the death of a child.

¹⁶⁹ **SECTION 126. AMENDMENT.** Section 50-25.2-14 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-14. Implementation contingent upon appropriation.

The department and ~~county social~~ human service boards ~~boards~~ zones are not required to implement or enforce this chapter with respect to any zone, region, area, or county of this state if the legislative assembly does not provide an appropriation to support the implementation and enforcement of this chapter within that zone, region, area, or county.

¹⁷⁰ **SECTION 127. AMENDMENT.** Section 50-29-01 of the North Dakota Century Code is amended and reenacted as follows:

50-29-01. Definitions.

As used in this chapter:

1. "Children's health insurance program" means a program to provide health assistance to low-income children funded through title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.].
2. ~~"County agency" means the county social service board.~~
3. ~~"Department" means the department of human services.~~
3. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
4. "Plan" means the children's health insurance program state plan.
5. "Poverty line" means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with ~~42 U.S.C. 9902(2)~~ section 9902(2) of title 42 of the United States Code, applicable to a family of the size involved.

¹⁶⁹ Section 50-25.2-14 was also amended by section 8 of House Bill No. 1107, chapter 418.

¹⁷⁰ Section 50-29-01 was also amended by section 1 of Senate Bill No. 2106, chapter 420.

¹⁷¹ **SECTION 128. AMENDMENT.** Section 50-29-02 of the North Dakota Century Code is amended and reenacted as follows:

50-29-02. Duties of the department.

1. The department shall prepare, submit, and implement the plan that includes determinations of eligibility, based on modified adjusted gross income methodologies as required in 42 U.S.C. 1396a(e)(14) section 1396a(e)(14) of the United States Code;
2. Supervise the administration of the children's health insurance program throughout this state;
3. Take action, give directions, and adopt rules as may be necessary or desirable to carry out the provisions of this chapter;
4. After federal approval of the plan, apply for a federal waiver allowing plan coverage for a family through an employer-based insurance policy if an employer-based family insurance policy is more cost-effective than the traditional plan coverage for the children;
5. Report annually to the legislative council and describe enrollment statistics and costs associated with the plan; and
6. ~~Reimburse counties for expenses incurred in the administration of the children's health insurance program at rates based upon all counties' total administrative costs; and~~
7. Administer all funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.

¹⁷² **SECTION 129. AMENDMENT.** Section 50-29-03 of the North Dakota Century Code is amended and reenacted as follows:

50-29-03. Duties of ~~county agency~~human service zone.

In the administration of the plan, unless the department otherwise establishes eligibility, the ~~county agency~~human service zone shall:

1. Administer the plan under the direction and supervision of the department; and
2. Make an investigation and record the circumstances of each applicant, obtaining information as may be required by the department.

SECTION 130. Chapter 50-35 of the North Dakota Century Code is created and enacted as follows:

50-35-01. Definitions.

As used in this chapter, unless the context otherwise requires:

¹⁷¹ Section 50-29-02 was also amended by section 2 of Senate Bill No. 2106, chapter 420.

¹⁷² Section 50-29-03 was also amended by section 3 of Senate Bill No. 2106, chapter 420.

1. "Department" means the department of human services.
2. "Director" means the executive director of the department or the executive director's designee.
3. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
5. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
6. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
7. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies. These costs include legal representation; facilities and related costs, such as utilities

and maintenance; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

50-35-02. State-paid human services - Application - Study.

1. The department shall administer a statewide program for state funding of staffing and administrative costs related to the administration of human services.
2. Payments must be distributed to human service zones and the department pursuant to the formula in section 50-35-04, with the first formula payment distributions commencing in January 2020.
3. Human service zones shall cooperate with the department to adopt administrative and operational cost-savings methodologies and determine options for consolidations. Human service zones shall implement the administrative and operational cost-savings methodologies and consolidations.
4. During the 2019-20 interim, the department shall consider options for allowing a human service zone to opt in to state employment. The study must identify under what conditions a transition to state employment may be desirable for a human service zone; outline the governance process for choosing to opt in to state employment, including a description of the role of the human service zone board, county commissions, and the department; and include a template and potential timeline for any zone choosing to make the transition to state employment.

50-35-03. Formula payments - Distributions by the director.

1. The director shall calculate the total formula payment for each human service zone pursuant to section 50-35-04 for each calendar year. The director shall notify each human service zone of the amount of that zone's formula payment for calendar year 2020, before December 16, 2019, and for calendar year 2021 and the following years thereafter, before June second of the previous year. The director may amend and modify each human service zone's formula payment. If the director amends and modifies a human service zone's formula payment, the human service zone director must be notified within thirty days of amendment or modification.
2. The director shall distribute fifty percent of the amount of each human service zone's formula payment determined under subsection 1, within the limits of legislative appropriation, before January eleventh.
3. By June first of each year, excluding calendar year 2019, the director shall recalculate the total formula payment for each human service zone pursuant to section 50-35-04 for the current calendar year.
4. For payments disbursed after calendar year 2020, the director shall subtract from a human service zone's June fifteenth disbursement any amount exceeding the limitation under section 50-35-05.
5. The director shall calculate the total formula payment for the department pursuant to section 50-35-04.

50-35-04. Calculation of formula payment - Expenditures.

1. The director shall calculate the total formula payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:
 - a. Other factors outlined in subsection 3;
 - b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];
 - c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members who received a salary increase from the county commissioners or county social service board for calendar year 2018 or 2019 which was above the salary increase provided by the legislative assembly for state employees or who receive a wage above equitable compensation; and
 - d. Current and future duties of and services offered by the human service zone and department.
2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.
3. The director may recalculate and adjust each human service zone's formula payment biannually based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's formula payment, the human service zone director must be notified within thirty days of amendment or modification. The pending authority of the human service zone must be increased based on the approved, adjusted, or modified formula payment.
4. The director, during the period between January 1, 2020, and December 31, 2021, shall calculate payment for indirect costs according to a formula established by the department, during the period between January 1, 2020, and December 31, 2021. The total payment by the department for reimbursement of indirect costs incurred to support human services may not be less than the prorated amount paid to counties for this purpose in state fiscal year 2018 as identified in the indirect cost plan, unless a cost reduction or cost-savings is achieved by the county.

50-35-05. Human service zone human services fund - Establishment - Fund balance limitations.

1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures by the human

service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's formula distribution payment, the county's cost allocation of indirect costs, and balance of moneys carried over pursuant to subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.

2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or one hundred thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

50-35-06. Human service zone human services fund - Transfer.

1. The county treasurer shall transfer the full amount of the service area human services fund to the human service zone human services fund on January 1, 2020. If on January 1, 2021, and each year thereafter, the balance of a human service zone human services fund exceeds the limitations in section 50-35-05, the director shall reduce the human service zone's formula payment as directed in subsection 4 of section 50-35-03.
2. The county may not transfer any funds from the service area human services fund until January 1, 2020, unless approved by the department.

50-35-07. Human service finance fund.

The human service finance fund is a special fund in the state treasury. Moneys in the fund may be used, subject to legislative appropriation, for the provision of formula payments to human service zones and payments to the department pursuant to this chapter.

SECTION 131. AMENDMENT. Section 54-46-13 of the North Dakota Century Code is amended and reenacted as follows:

54-46-13. Rules for state and ~~county social~~human service zone records - Administrator to adopt.

The administrator shall adopt rules in accordance with chapter 28-32 for state and ~~county social~~human service zone records. The rules adopted by the administrator must be consistent with records retention requirements imposed by federal law with respect to those records. The administrator, prior to adoption, amendment, or repeal of rules concerning state and ~~county social~~human service zone records, shall consult with the executive director of the department of human services.

SECTION 132. AMENDMENT. Subsection 3 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the

levy limitation under this section, the dollar amount levied in the base year must be:

- a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
- b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
- d. Reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of the base year mill rate of the school district minus sixty mills or fifty mills, if the base year is a taxable year before 2013.
- e. ~~Increased by the highest amount received by the taxing district in a taxable year under chapter 50-34.~~

¹⁷³ **SECTION 133. AMENDMENT.** Section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties.

The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. A county supporting an airport or airport authority may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. A county levying a tax for extension work as provided in section 11-38-01 may levy a tax not exceeding two mills and if a majority of the electors of the county have approved additional levy authority under section 11-38-01, the county may levy a voter-approved tax not exceeding an additional tax of two mills.
3. A county levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one-quarter of one mill, except that if sixty percent of the qualified electors voting on the question of a levy limit increase

¹⁷³ Section 57-15-06.7 was also amended by section 3 of House Bill No. 1268, chapter 213.

as provided in section 11-11-53 shall approve, the tax levy limitation may be increased to not exceeding three-quarters of one mill.

4. A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than ten years at a mill rate not exceeding five mills.
5. A county levying a tax for county roads and bridges as provided in section 24-05-01 may levy a tax at a tax rate not exceeding ten mills. When authorized by a majority of the qualified electors voting upon the question at a primary or general election in the county, the county commissioners may levy and collect an additional tax for road and bridge purposes as provided in section 24-05-01, not exceeding a combined additional tax rate of twenty mills.
6. A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.
7. A county levying a tax for a county veterans' service officer's salary, traveling, and office expenses in accordance with section 57-15-06.4 may levy a tax not exceeding two mills.
8. A county levying a tax for capital projects under section 57-15-06.6 may levy a tax not exceeding ten mills. When authorized by a majority of the qualified electors voting upon the question of a specific capital project or projects at a primary or general election in the county, the county commissioners may levy and collect an additional voter-approved tax for capital projects under section 57-15-06.6 not exceeding a tax rate of ten mills per dollar of the taxable valuation of property in the county. After January 1, 2015, approval or reauthorization by electors of increased levy authority under this subsection may not be effective for more than ten taxable years. Any voter-approved levy in excess of ten mills for the purposes specified in section 57-15-06.6 approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved.
9. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding two mills in a county with a population of thirty thousand or more, four mills in a county with a population under thirty thousand but more than five thousand, or six mills in a county with a population of five thousand or fewer.
10. A county levying a tax for county emergency medical service according to section 57-15-50 may levy a tax not exceeding ten mills.
11. A county levying a tax for weed control as provided in section 4.1-47-14 may levy a tax not exceeding four mills.
12. A county levying a tax for programs and activities for senior citizens according to section 57-15-56 may levy a tax not exceeding two mills.
13. Tax levies made for paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.

14. A county levying a tax for a job development authority as provided in section 11-11.1-04 may levy a tax not exceeding four mills on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority and the total of the county and city levies exceeds four mills, the county tax levy within the city levying under subsection 12 of section 57-15-10 must be reduced so the total levy in the city does not exceed four mills.
15. ~~A county levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the number of mills determined by dividing the county budget limitation in dollars as determined under section 11-23-01 by the taxable valuation of the county.~~
16. A levy for an extraordinary expenditure under section 11-11-24 approved by the electors of the county before January 1, 2015, may continue to be levied and collected under provisions of law in effect when the levy was approved and for the term it was approved by the electors. When the levy authority for an extraordinary expenditure ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund.
17. ~~16.~~ Levies dedicated under section 57-15-59 before January 1, 2015, for lease payments may be continued to be levied and collected for the duration of the lease. When the levy authority for lease payments ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund. A lease for county facilities effective after December 31, 2014, is subject to the capital projects levy limitations of section 57-15-06.6.

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 134. AMENDMENT. Section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-07.1. County treasurer to mail real estate tax statement - Contents of statement.

1. On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at the owner's last-known address. The form of the real estate tax statement to be used in every county must be prescribed and approved for use by the tax commissioner. The statement must be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments as provided in the statement. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request and the furnishing of their names and addresses to the county treasurer. The tax statement must:
 - a. Include a dollar valuation of the true and full value as defined by law of the property and the total mill levy applicable.

- b. Include, or be accompanied by a separate sheet, with three columns showing, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, the property tax levy in dollars against the parcel by the county and school district and any city or township that levied taxes against the parcel.
- c. Provide information identifying the property tax savings provided by the state of North Dakota. The tax statement must include a line item that is entitled "legislative tax relief" and identifies the dollar amount of property tax savings realized by the taxpayer under chapter 50-34 for taxable years 2017 and 2018 and under before 2019, chapter 50-35 for taxable years after 2018, and chapter 15.1-27.

(1) For purposes of this subdivision, legislative tax relief under chapter 15.1-27 is determined by multiplying the taxable value for the taxable year for each parcel shown on the tax statement by the number of mills of mill levy reduction grant under chapter 57-64 for the 2012 taxable year plus the number of mills determined by subtracting from the 2012 taxable year mill rate of the school district in which the parcel is located the lesser of:

(1) (a) Fifty mills; or

(2) (b) The 2012 taxable year mill rate of the school district minus sixty mills.

(2) Legislative tax relief under chapter 50-35 is determined by multiplying the taxable value for the taxable year for each parcel shown on the tax statement by the number of mills of relief determined by dividing the amount calculated in subsection 1 of section 50-35-03 for a human service zone by the taxable value of taxable property in the zone for the taxable year.

- 2. Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline.

SECTION 135. AMENDMENT. Subsection 3 of section 57-20-07.3 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The amount of credit is determined by multiplying the company's assessed tax by a fraction, the numerator of which is the total of all formula payments calculated for the subsequent calendar year under section ~~50-34-03~~50-35-03 and the denominator of which is the total statewide ad valorem property tax levied in the prior taxable year.

SECTION 136. AMENDMENT. Subdivision b of subsection 1 of section 57-55-10 of the North Dakota Century Code is amended and reenacted as follows:

- b. If it is owned and occupied by a welfare recipient, provided the mobile home is not permanently attached to the land and classified as real property. For the purposes of this subdivision, "welfare recipient" means any person who is certified to the county director of tax equalization by the

~~county social human service board zone~~ as receiving the major portion of income from any state or federal public assistance program.

¹⁷⁴ **SECTION 137. AMENDMENT.** Subsection 16 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

16. "Employee" means an individual who performs hazardous employment for another for remuneration unless the individual is an independent contractor under the common-law test.

a. The term includes:

- (1) All elective and appointed officials of this state and its political subdivisions, including municipal corporations and including the members of the legislative assembly, all elective officials of any county, and all elective peace officers of any city.
- (2) Aliens.
- (3) ~~County Human service zone~~ general assistance workers, except those who are engaged in repaying to ~~counties human service zones or the department of human services~~ moneys the ~~counties human service zones or the department of human services~~ have been compelled by statute to expend for ~~county~~ general assistance.
- (4) Minors, whether lawfully or unlawfully employed. A minor is deemed sui juris for the purposes of this title, and no other person has any claim for relief or right to claim workforce safety and insurance benefits for any injury to a minor worker, but in the event of the award of a lump sum of benefits to a minor employee, the lump sum may be paid only to the legally appointed guardian of the minor.

b. The term does not include:

- (1) An individual whose employment is both casual and not in the course of the trade, business, profession, or occupation of that individual's employer.
- (2) An individual who is engaged in an illegal enterprise or occupation.
- (3) The spouse of an employer or the child under the age of twenty-two of an employer. For purposes of this paragraph and section 65-07-01, "child" means any legitimate child, stepchild, adopted child, foster child, or acknowledged illegitimate child.
- (4) A real estate broker or real estate salesperson, provided the individual meets the following three requirements:
 - (a) The salesperson or broker must be a licensed real estate agent under section 43-23-05.

¹⁷⁴ Section 65-01-02 was also amended by section 1 of House Bill No. 1072, chapter 524, section 1 of House Bill No. 1073, chapter 525, and section 2 of Senate Bill No. 2184, chapter 523.

- (b) Substantially all of the salesperson's or broker's remuneration for the services performed as a real estate agent must be directly related to sales or other efforts rather than to the number of hours worked.
 - (c) A written agreement must exist between the salesperson or broker and the person for which the salesperson or broker works, which agreement must provide the salesperson or broker will not be treated as an employee but rather as an independent contractor.
- (5) The members of the board of directors of a business corporation who are not employed in any capacity by the corporation other than as members of the board of directors.
- (6) An individual delivering newspapers or shopping news, if substantially all of the individual's remuneration is directly related to sales or other efforts rather than to the number of hours worked and a written agreement exists between the individual and the publisher of the newspaper or shopping news which states the individual is an independent contractor.
- (7) An employer.

SECTION 138. REPEAL. Chapter 50-03 and sections 50-06-20.1 and 50-06.2-05 of the North Dakota Century Code are repealed.

¹⁷⁵ **SECTION 139. REPEAL.** Sections 50-01-03, 50-01.1-02.1, 50-01.2-03.1, 50-01.2-06, 50-06-05.7, 50-06-06.1, and 50-25.1-06.1 of the North Dakota Century Code are repealed.

SECTION 140. REPORT TO SIXTY-SEVENTH LEGISLATIVE ASSEMBLY - DEPARTMENT OF HUMAN SERVICES. The department of human services shall submit to the appropriations committees of the sixty-seventh legislative assembly a report with metrics that include the cost per unit of work for transactional services or caseloads and other performance metrics as available. The department of human services shall submit trends in these metrics for selected programs or geographies that have undergone concentrated process improvement efforts under pilot projects or otherwise in collaboration with the department.

SECTION 141. CONTINGENT APPROPRIATION AND AUTHORIZATION. Subject to the availability of funds, the department of human services may adjust or increase full-time equivalent positions of the department of human services in order to carry out the powers and duties of the department of human services as follows:

1. Up to thirty-three full-time equivalent positions included in Senate Bill No. 2012, as approved by the sixty-sixth legislative assembly, may be adjusted or increased only if one or more human service zones transfers powers and duties associated with one or more programs, services, or functions from a human service zone to the department of human services.
2. Any positions added to the department of human services under this section would be position transfers from the human service zone and may not result in:

¹⁷⁵ Section 50-25.1-06.1 was amended by section 6 of House Bill No. 1108, chapter 416.

- a. A net addition of positions delivering human services programs, services, or functions under the appropriation provided in Senate Bill No. 2012, as approved by the sixty-sixth legislative assembly.
 - b. An increase in county social services employees or human service zone team members delivering human services programs, services, or functions.
3. The funds for salaries, wages, and operating costs associated with any position added to the department of human services under this section must be paid for with the line items of salaries and wages and operating costs authorized in Senate Bill No. 2012, as approved by the sixty-sixth legislative assembly.
 4. The department of human services shall notify the office of management and budget and report to the budget section after June 30, 2020, if one or more full-time equivalent positions are authorized under this section of this Act. The department of human services shall include in the notification and report the amount of salaries, wages, and operating costs withheld from human service zone formula payments because of a transfer of powers and duties and the corresponding full-time equivalent positions.
 5. The department of human services shall notify the appropriations committees of the sixty-seventh legislative assembly of any full-time equivalent positions transferred pursuant to this section.
 6. Of the thirty-three full-time equivalent positions in this section, the department of human services may adjust or increase full-time equivalent positions as transfers from one or more human service zones up to:
 - a. Fourteen full-time equivalent positions if the department of human services assumes powers and duties associated with foster care assistance or IV-E eligibility determination.
 - b. Sixteen full-time equivalent positions if the department of human services assumes powers and duties associated with long-term care eligibility determination.
 - c. Three full-time equivalent positions to serve as quality control to the human service zones.
 7. Of the thirty-three full-time equivalent positions in this section, the department of human services may adjust or increase full-time equivalent positions as transfers from one or more human service zones for management support to administer the powers and duties transferred.

SECTION 142. TRANSFER OF EMPLOYEES - HEALTH INSURANCE COVERAGE.

1. The following full-time equivalent positions of a county or human service zone become full-time equivalent positions of the department of human services upon notice of transfer to the human service zone director or county commissioners:

- a. Four full-time equivalent positions to serve as human service zone operational directors to provide supervision and technical assistance to the human service zones.
 - b. Twenty-seven full-time equivalent child care licensing positions.
 - c. Two full-time equivalent adoption assistance eligibility determination and adoption case management or related administration positions.
 - d. Sixty-four full-time equivalent home and community-based services case management positions.
 - e. Three full-time equivalent positions to assist with the human service zones, human service zone plans, or formula payments, or to relieve human service zones of miscellaneous duties, including estate recovery.
 - f. Seven full-time equivalent positions to serve as quality control to the human service zones.
2. Of the one hundred seven full-time equivalent positions in this section, the department of human services may adjust or increase full-time equivalent positions as transfers from one or more host counties for management support to administer the powers and duties transferred.
 3. Any employee who becomes a state employee under this section or section 141 is entitled to receive a salary in an amount not less than the salary received as an employee of the county or host county.
 4. The department may limit future salary increases for an employee who is transferred under this section or section 141 who received a salary increase from their former county commissioners or county social service board for the calendar years 2018 or 2019 above the salary increase provided by the legislative assembly for state employees or who receive a wage above equitable compensation.
 5. Each year of county or host county employment of an employee who is transferred under this section or section 141 will be considered a year of state employment for purposes of section 54-06-14.
 6. Before the transfer of the full-time equivalent position from the county or host county to the department of human services, the county or host county shall pay the employer's share of any premium that is necessary to continue any existing health insurance coverage for an employee who is transferred under this section for one month after the effective date of this transfer.
 7. Any equipment, including technology-related equipment, furnishings, and supplies in the control and custody of a county or human service zone on the effective date of an employment transfer from the county or host county to the department of human services under this section or section 141, may be transferred to the control and custody of the department of human services if requested.
 8. Any position added to the department of human services under this section would be position transfers from the human service zone and may not result in:

- a. A net addition of positions delivering human services programs, services, or functions under the appropriation provided in Senate Bill No. 2012, as approved by the sixty-sixth legislative assembly.
- b. An increase in county social services employees or human service zone team members delivering human services programs, services, or functions.

SECTION 143. EFFECTIVE DATE. Sections 64 and 142 of this Act become effective on August 1, 2019. Sections 132, 133, 134, and 135 are effective for taxable years beginning after December 31, 2018. Sections 1, 3 through 13, 15, 16 through 25, 27 through 30, 32, 33, 35, 37 through 60, 65 through 74, 76 through 82, 84 through 91, 93 through 129, 131, 136, 137, 139, 140, and 141 of this Act become effective on January 1, 2020.

SECTION 144. EXPIRATION DATE. Sections 14, 26, 31, 34, and 36 of this Act are effective through December 31, 2019, and after that date are ineffective.

SECTION 145. EMERGENCY. Section 130 of this Act is declared to be an emergency measure.

Approved April 17, 2019

Filed April 18, 2019

CHAPTER 392

SENATE BILL NO. 2198

(Senators J. Lee, Anderson, Mathern)
(Representatives Roers Jones, Schreiber-Beck)

AN ACT to amend and reenact sections 23-01-44 and 50-06-01 of the North Dakota Century Code, relating to duties of the department of human services behavioral health division.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁶ **SECTION 1. AMENDMENT.** Section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

23-01-44. Syringe or needle exchange program - Authorization.

1. As used in this section:
 - a. "Program" means a syringe exchange program established and operated under this section.
 - b. "Qualified entity" means:
 - (1) A local health department;
 - (2) A city that operates a program within the boundaries of the city; or
 - (3) An organization that has been authorized to operate a program by the state department of health, the board of county commissioners, or the governing body for the operation of a program within the boundaries of the city.
2. The state department of health, in collaboration with the department of human services behavioral health division, shall design a syringe exchange program. The state department of health shall administer the program.
3. The state department of health may authorize a qualified entity to operate a program in a county if:
 - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
 - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and
 - c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer.

¹⁷⁶ Section 23-01-44 was also amended by section 5 of Senate Bill No. 2240, chapter 225.

- 3-4. A qualified entity operating a program under this chapter shall:
- a. Register the program annually in the manner prescribed by the state department of health;
 - b. Have a pharmacist, physician, or advanced practice registered nurse who is licensed in the state to provide oversight for the program;
 - c. Store and dispose of all syringes and needles collected in a safe and legal manner;
 - d. Provide education and training on drug overdose response and treatment, including the administration of an overdose reversal medication;
 - e. Provide education, referral, and linkage to human immunodeficiency virus, viral hepatitis, and sexually transmitted disease prevention, treatment, and care services;
 - f. Provide drug addiction treatment information, and referrals to drug treatment programs, including programs in the local area and programs that offer medication-assisted treatment that includes a federal food and drug administration approved long-acting, non-addictive medication for the treatment of opioid or alcohol dependence;
 - g. Provide syringe, needle, and injection supply distribution and collection without collecting or recording personally identifiable information;
 - h. Operate in a manner consistent with public health and safety; and
 - i. Ensure the program is medically appropriate and part of a comprehensive public health response.
- 4-5. The state department of health may terminate a program for failure to comply with any of the provisions in this section.
- 5-6. A state agency may not provide general fund monies to a program to purchase or otherwise acquire hypodermic syringes, needles, or injection supplies for a program under this section.
- 6-7. A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes and needles appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4 or possession of a controlled substance under section 19-03.1-23.
- 7-8. Each program shall file a semiannual report with the state department of health containing the following information listed on a daily basis and by location, identified by the postal zip code, where the program distributed and collected syringes and needles:
- a. The number of individuals served;
 - b. The number of syringes and needles collected;
 - c. The number of syringes and needles distributed; and

d. Any additional information requested by the state department of health.

¹⁷⁷ **SECTION 2. AMENDMENT.** Section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01. Definition.

As used in this chapter, unless the context otherwise requires:

1. "Behavioral health" means the planning and implementation of preventive, consultative, diagnostic, treatment, crisis intervention, ~~and~~ rehabilitative, and suicide prevention services for individuals with mental, emotional, or substance use disorders, and psychiatric conditions.
2. "Behavioral health provider" means any licensed or accredited behavioral health provider in this state.
3. "Department" means the department of human services.
4. "Human services" means services provided to an individual or an individual's family in need of services to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

Approved March 28, 2019

Filed March 29, 2019

¹⁷⁷ Section 50-06-01 was also amended by section 78 of Senate Bill No. 2124, chapter 391.

CHAPTER 393

HOUSE BILL NO. 1100

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-06-01.7 of the North Dakota Century Code, relating to fees charged by the behavioral health division of the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-01.7 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.7. Behavioral health division - Administration - Fees.

1. The department of human services shall administratively restructure the behavioral health division to require the division to develop and revise, when necessary, the state mental health plan and provide the behavioral health division the authority to implement and supervise a unified mental health delivery system and to assure the mental health services provided by the human service centers, the state hospital, and contracted services are in accordance with the state plan.
2. The behavioral health division may establish nonrefundable application fees not to exceed three hundred dollars for administration and enforcement of licensing and certification activities. The department shall adopt rules as necessary to implement this section. All fees collected under this section must be paid to the behavioral health division and must be used to defray the cost of administering and enforcing licensing and certification activities.

Approved March 8, 2019

Filed March 8, 2019

CHAPTER 394

SENATE BILL NO. 2313

(Senators J. Lee, Hogan, Poolman)
(Representatives Rohr, Westlind)

AN ACT to create and enact two new subsections to section 50-06-05.1 and two new sections to chapter 50-06 of the North Dakota Century Code, relating to duties of the department of human services, creation of a children's cabinet, and creation of a commission on juvenile justice; to repeal section 50-06-43 of the North Dakota Century Code, relating to the children's behavioral health task force; to provide a report to the legislative management; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁸ **SECTION 1.** A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.

SECTION 2. A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community.

SECTION 3. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Children's cabinet - Membership - Duties.

1. The children's cabinet is created to assess, guide, and coordinate the care for children across the state's branches of government and the tribal nations.
2. The children's cabinet consists of the following members:
 - a. The governor, or the governor's designee;
 - b. The chief justice of the supreme court, or the chief justice's designee;

¹⁷⁸ Section 50-06-05.1 was also amended by section 4 of House Bill No. 1102, chapter 404, section 10 of Senate Bill No. 2055, chapter 438, section 11 of Senate Bill No. 2055, chapter 438, and section 81 of Senate Bill No. 2124, chapter 391.

- c. The speaker of the house of representatives, or the speaker's designee;
 - d. The president pro tempore of the senate, or the president pro tempore's designee;
 - e. The superintendent of public instruction, or the superintendent's designee;
 - f. The director of the committee on protection and advocacy, or the director's designee;
 - g. A representative of the tribal nations in the state, who is appointed by the governor; and
 - h. Four individuals representing parents, private service providers, or other community interests, who are appointed by the governor to serve a term of two years, at the pleasure of the governor, and who are entitled to reimbursement from the department of human services for travel and lodging at the same rate as provided for state officers and employees.
3. The chairman of legislative management, shall serve as the presiding officer of the cabinet. The cabinet shall meet at least quarterly. Additional meetings may be held at the discretion of the presiding officer.
4. The children's cabinet shall:
- a. Coordinate broad-based leadership across programs, agencies, branches of government, and tribal nations to meet the needs of children;
 - b. Develop strategies to address gaps or needs regarding early care and education, medical and behavioral health, community, child welfare, and juvenile justice;
 - c. Develop strategies to provide for the full continuum of care in the delivery of services, including promotion, prevention, early identification and intervention, service delivery, and recovery;
 - d. Seek to engage cooperation across public and private service providers;
 - e. Provide a comprehensive vision for how and where children are best served, attending to children in a respectful and relevant manner;
 - f. Seek strategies to provide services to children without consideration of prior engagement with juvenile services;
 - g. Provide for the active participation of consumers and providers statewide on advisory committees; and
 - h. Receive information and recommendations from the department of human services, department of corrections and rehabilitation, and other state agencies.
5. The department of human services shall provide the children's cabinet with staffing and administrative services.

SECTION 4. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Commission on juvenile justice - Reports.

1. The commission on juvenile justice is composed of:
 - a. Three members of the house of representatives, two of whom must be selected by the majority leader of the house of representatives and one of whom must be selected by the minority leader of the house of representatives;
 - b. Three members of the senate, two of whom must be selected by the majority leader of the senate and one of whom must be selected by the minority leader of the senate;
 - c. The governor, or the governor's designee;
 - d. The superintendent of public instruction, or the superintendent's designee;
 - e. The executive director of the department of human services, or the executive director's designee;
 - f. The director of the department of corrections and rehabilitation's division of juvenile services, or the director's designee;
 - g. The executive director of the Indian affairs commission, or the executive director's designee;
 - h. A director of juvenile court services, appointed by the chief justice of the supreme court;
 - i. A representative from the commission on legal counsel for indigents; and
 - j. The following members appointed by the governor:
 - (1) A state's attorney;
 - (2) A representative of a children's advocacy center; and
 - (3) A representative of a city police department.
2. The governor shall designate one of the members of the commission to serve as the presiding officer. The governor's appointees serve at the pleasure of the governor. Excluding ex officio members, the term of a commission member is two years.
3. The commission shall meet at least four times per year at the times and locations designated by the presiding officer. The office of the governor shall provide staffing for the commission.
4. The commission shall:
 - a. Review chapter 27-20;
 - b. Gather information concerning issues of child welfare, including education, abuse, and neglect;

- c. Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations, in furtherance of the commission's duties;
 - d. Advise effective intervention, resources, and services for children;
 - e. Report to and be subject to the oversight of the children's cabinet; and
 - f. Annually submit to the governor and the legislative management a report with the commission's findings and recommendations which may include a legislative strategy to implement the recommendations.
5. A member of the commission who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees to be paid by the department of corrections and rehabilitation. A state employee who is a member of the commission is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

SECTION 5. REPEAL. Section 50-06-43 of the North Dakota Century Code is repealed.

SECTION 6. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2025, and after that date is ineffective.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 395

HOUSE BILL NO. 1034

(Legislative Management)
(Human Services Committee)

AN ACT to require the department of human services to establish guidelines for long-term care services providers to deliver home and community-based services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Long-term care services providers - Home and community-based services.

The department of human services shall establish guidelines for long-term care services providers to deliver home and community-based services to allow individuals to remain in their homes and communities.

Approved March 19, 2019

Filed March 20, 2019

CHAPTER 396

HOUSE BILL NO. 1105

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-06-06.13 and 50-06-42 of the North Dakota Century Code, relating to treatment services for children with serious emotional disorders and the substance use disorder treatment voucher system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-06.13 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.13. Treatment services for children with serious emotional disorders.

1. The department shall establish ~~in all human service regions~~ a program to provide out-of-home treatment services for a Medicaid-eligible child with a serious emotional disorder. The department may not require a parent or legal guardian to transfer legal custody of the child in order to have the child placed in an out-of-home treatment program ~~when~~^{if} the sole reason for the placement is the need to obtain services for the child's emotional or behavioral problems. With departmental approval, a parent with legal and physical custody of the child may obtain treatment services for the child through the program. A parent without physical custody of a child, who disagrees with a child's treatment under this section, may request a judicial determination regarding the child's treatment.
2. The department may establish a program to prevent out-of-home placement for a Medicaid-eligible child with a behavior health condition as defined in the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, fifth edition, text revision (2013).

SECTION 2. AMENDMENT. Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

50-06-42. Substance use disorder treatment voucher system.

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, excluding regional human service centers, 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, ~~hospital~~^{hospital}, and medical clinic ~~programs~~^{program} 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, ~~hospital~~hospital, and medical clinic ~~programs~~program accepting vouchers. A private licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 397

SENATE BILL NO. 2247

(Senators Hogan, J. Lee, Luick)
(Representatives Rohr, Schneider, Westlind)

AN ACT to amend and reenact section 50-06-37 of the North Dakota Century Code, relating to the developmental disabilities system reimbursement project; to provide a statement of legislative intent; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁹ **SECTION 1. AMENDMENT.** Section 50-06-37 of the North Dakota Century Code is amended and reenacted as follows:

50-06-37. Developmental disabilities system reimbursement project.

The department of human services, in conjunction with developmental disabilities service community providers, shall develop maintain a prospective or related payment system with an independent rate model utilizing the support intensity scale based on a state-approved assessment.

1. The department shall establish maintain a steering committee consisting of no more than eighteen representatives from all interested providers and which must include no more than two clients, no more than one family member of a client, a representative of the department representatives, and a representative of the North Dakota protection and advocacy project. The steering committee shall guide the development of the new payment system including assisting a consultant to conceptualize, develop, design, implement, and evaluate a new payment system.
2. The department shall may contract with a consultant by September 1, 2011, to develop continuously improve, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to support intensity scale assessed needs of clients aged sixteen and older and to a state-approved assessment that assesses needs of clients younger than sixteen years of age the state-approved assessment.
3. After the prospective or related payment system rates are developed, the new rates must be tested on a sampling of clients and providers, the sample to be determined by the steering committee, allowing sufficient time to capture provider cost, client realized need, and service provision data. The consultant shall provide the appropriate sampling number to sufficiently test the rates, types of services, and needs of clients with the intent to include as many providers as fiscally feasible.
- 4.3. The department shall contract with a team of support intensity scale assessors by September 1, 2011. The team shall begin assessing immediately the

¹⁷⁹ Section 50-06-37 was also amended by section 3 of House Bill No. 1517, chapter 228.

~~identified client pilot group identified by the consultant contracted in subsection 2-vendor to complete assessments based on the state-approved assessment.~~

5. ~~Once testing is complete, the data~~
4. ~~Data must be analyzed by the consultant steering committee, and the consultant steering committee shall make recommend to the department any needed rate adjustments, resource allocation modifications, or process assumptions, including the state-approved assessment.~~
6. ~~Beginning in June 2012, the~~
5. ~~The department and the steering committee shall report development activities and status information to an interim legislative committee.~~
7. ~~Implementation of any system developed under this chapter may not occur before the implementation of the department's new Medicaid management information system.~~

SECTION 2. LEGISLATIVE INTENT - ONGOING IMPROVEMENTS. It is the intent of the sixty-sixth Legislative Assembly that the department of human services continue to work with community providers to consider revising administrative requirements regarding developmental disability service providers to minimize disruption and maximize effectiveness of direct services to clients.

SECTION 3. LEGISLATIVE INTENT - COMMUNITY PROVIDER CAPACITY - INTELLECTUAL DISABILITY SYSTEM - REPORT TO LEGISLATIVE MANAGEMENT. It is the intent of the sixty-sixth legislative assembly that the department of human services continue to work with community providers to continuously improve community provider capacity to serve clients in the least restrictive appropriate setting. The department shall provide the legislative management a status report on the ongoing work of the department to improve community provider capacity, together with any barriers encountered. The department shall also provide a report to legislative management regarding the system of services for individuals with an intellectual or developmental disability, including a review of the existing service system, funding, and unmet needs.

Approved April 23, 2019

Filed April 24, 2019

CHAPTER 398

HOUSE BILL NO. 1237

(Representatives Roers Jones, Satrom, Schneider)
(Senator Clemens)

A BILL to provide for a task force on prevention of sexual abuse of children; and to provide for a report to the legislative management and the governor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TASK FORCE ON PREVENTION OF SEXUAL ABUSE OF CHILDREN - REPORT TO THE LEGISLATIVE MANAGEMENT AND THE GOVERNOR.

1. Beginning with the effective date of this Act and ending September 30, 2024, the task force on the prevention of sexual abuse of children is established to develop and implement a comprehensive statewide approach to the prevention of child sexual abuse. The statewide approach must ensure appropriate policies, funding, staffing, resources, and programming are available. The task force shall build upon the efforts of the 2017-18 North Dakota task force on the prevention of sexual abuse of children.
2. The task force consists of the following members:
 - a. One member of the senate appointed by the majority leader of the senate, one member of the house of representatives appointed by the majority leader of the house of representatives, and one member of the minority party appointed by the minority leaders of the senate and the house of representatives;
 - b. The executive director of the department of human services, or the executive director's designee;
 - c. A representative of a children's advocacy center or similar organization that assists in the investigation, prosecution, and treatment of child sexual and physical abuse cases, appointed by the executive director of the department of human services;
 - d. A representative of a domestic violence rape crisis center involved in the prevention of child abuse or the treatment of child abuse victims, or both, appointed by the executive director of the department of human services;
 - e. The superintendent of public instruction, or the superintendent's designee;
 - f. A representative of law enforcement, appointed by the attorney general;
 - g. The executive director of the Indian affairs commission, or the executive director's designee;
 - h. One school social worker from a public school district in the state, appointed by the superintendent of public instruction;

- i. Two school principals, one from an urban school district and one from a rural school district in the state, appointed by the superintendent of public instruction from a list provided by the North Dakota council of educational leaders;
 - j. One member from the faith-based community, appointed by the attorney general;
 - k. Two school counselors, one from an urban school district and one from a rural school district in the state, appointed by the superintendent of public instruction from a list provided by the North Dakota school counselors association; and
 - l. Any other organization or individual the task force deems appropriate.
3. The executive director of the department of human services, or the executive director's designee, shall convene the task force. The task force shall elect a presiding officer by a majority vote of the membership of the task force. The task force shall meet at the call of the presiding officer.
4. The task force shall focus on:
 - a. Increasing child sexual abuse prevention education for tribal and nontribal children and adults;
 - b. Increasing interagency data collection, sharing, and collective analysis;
 - c. Supporting resource development for investigations and prosecutions of child sexual abuse, including the sentencing, supervision, and treatment of sex offenders;
 - d. Increasing trauma-informed services for children, adult survivors, and families; and
 - e. Implementing the remaining recommendations of the November 2018 final report of the North Dakota task force on the prevention of child sexual abuse.
5. The recommendations of the task force may include proposals for specific statutory changes, actions the task force deems necessary and appropriate to initiate awareness education of adults and children, and methods to foster cooperation among state agencies and between the state and local governments in adopting and implementing a policy addressing sexual abuse of children which may include:
 - a. Developmentally appropriate resources for students in prekindergarten through grade twelve;
 - b. Training for school personnel on child sexual abuse;
 - c. Educational information to parents or guardians provided in school handbooks regarding the warning signs of a child being abused, along with any needed assistance, referral, or resource information;
 - d. Available counseling and resources for students affected by sexual abuse;

-
- e. Emotional and educational support for a child of abuse to continue to be successful in school; and
 - f. Any other action deemed appropriate.
6. Before July first of each even-numbered year, the task force shall submit a report, together with any findings and recommendations, to the legislative management and the governor. Before July 1, 2024, the task force shall submit a final report, together with any findings and recommendations, to the legislative management and the governor.

Approved April 17, 2019

Filed April 18, 2019

CHAPTER 399

HOUSE BILL NO. 1032

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-06.2 of the North Dakota Century Code, relating to a sliding fee schedule for the service payments for elderly and disabled program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06.2 of the North Dakota Century Code is created and enacted as follows:

Service payments for elderly and disabled sliding fee schedule.

The department shall establish annually a sliding fee schedule based on family size and income to determine a recipient's participation fee percentage for services received through the service payments for elderly and disabled program.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 400

SENATE BILL NO. 2027

(Legislative Management)
(Health Services Committee)

AN ACT to amend and reenact section 50-06.4-01 of the North Dakota Century Code, relating to the definition of brain injury.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.4-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-01. Definitions.

As used in this chapter:

1. "Brain injury" means ~~any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, nontraumatic encephalopathy, nontraumatic aneurysm, stroke, or degenerative brain disorders or injuries induced by birth trauma~~damage to the brain or the coverings of the brain which produces an altered mental state and results in a decrease in cognitive, behavioral, emotional, or physical functioning. The term does not include an insult of a degenerative or congenital nature.
2. "Department" means the department of human services.

Approved March 20, 2019

Filed March 21, 2019

CHAPTER 401

SENATE BILL NO. 2105

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-06.5 of the North Dakota Century Code, relating to duties of the designated state entity regarding independent living council and independent living centers and services; to amend and reenact sections 50-06.5-01, 50-06.5-02, 50-06.5-03, 50-06.5-04, 50-06.5-06, 50-06.5-07, and 50-06.5-08 of the North Dakota Century Code, relating to the independent living council and independent living centers and services; and to repeal section 50-06.5-05 of the North Dakota Century Code, relating to the state plan for independent living centers and services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency that is designed and operated within a local community by individuals with disabilities ~~a disability, that provides which can provide~~ an array of independent living services and programs, ~~and that does not offer permanent housing among its services and complies with the standards and assurances in accordance with section 796f-4 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].~~
2. "Consumer control" means power and authority vested in individuals with disabilities ~~a disability~~ and, when applied to a center for independent living, means ~~at least fifty-one~~ more than fifty percent of the principal governing board; ~~and management, and staff are individuals with disabilities~~ a disability.
3. "Council" means the statewide independent living council.
4. "Designated state ~~agency~~ entity" means the vocational rehabilitation division of the department of human services as defined in the state plan for independent living.
5. "Director" means the director of the designated state ~~agency~~ entity.
6. "Disability" means ~~a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or being regarded as having a physical or mental impairment that substantially limits one or more of the major life activities.~~

7. "Independent living core services" means information and referral services; independent living skills training; peer counseling, and including cross-disability peer counseling; individual and systems advocacy; services that facilitate the transition of an individual with a significant disability from a nursing home and other institutions to a home and community-based residence, with the requisite supports and services; to provide assistance to an individual with a significant disability who is at risk of entering an institution so the individual may remain in the community; and to facilitate the transition of youth who are individuals with a significant disability, who were eligible for an individualized education program and who have completed their postsecondary education or otherwise left school, to postsecondary life or have reached the age of eighteen and are still receiving services in accordance with an individualized education program and have not completed their postsecondary education.

~~8-7.~~ "Independent living services" includes independent living core services and other services and assistance that may include:

- ~~a. Counseling services, including psychological, psychotherapeutic, and related services;~~
- ~~b. Services related to securing housing or shelter;~~
- ~~c. Assistive technology;~~
- ~~d. Interpreter and reader services;~~
- ~~e. Personal assistance services, including attendant care and training of personnel providing those services;~~
- ~~f. Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation and other support services;~~
- ~~g. Services and technical assistance related to the implementation of the federal Americans with Disabilities Act and other related state and federal laws;~~
- ~~h. Activities supporting, assisting, or maintaining life in the community;~~
- ~~i. Transportation, including referral and assistance for transportation;~~
- ~~j. Individual and group community integration activities;~~
- ~~k. Training to develop skills that promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;~~
- ~~l. Appropriate preventive services to decrease the needs of individuals assisted under this chapter for similar services in the future;~~
- ~~m. Community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and~~

- n. Other services, as may be necessary, not inconsistent with this chapter as described in section 705 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
8. "Individual with a disability" means an individual with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, with a record of impairment, or who is regarded as having such an impairment.
9. "Individual with a significant disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

SECTION 2. AMENDMENT. Section 50-06.5-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-02. Statewide independent living council.

A statewide independent living council is established. The council shall adopt bylaws governing operations of the council. The council shall meet at least quarterly.

SECTION 3. AMENDMENT. Section 50-06.5-03 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-03. Membership Requirements of the statewide independent living council.

1. ~~The governor, or an entity designated by the governor, shall appoint the members of the council, except as provided in subdivision b of subsection 2. The appointing authority shall select members after soliciting recommendations from representatives of consumer-controlled organizations representing a broad range of individuals with disabilities. The council shall select a chairman from among its membership council shall meet or exceed the requirements of section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.], including composition and appointment of members.~~
2. The council must include:
 - a. A majority of individuals with disabilities who are not state employees.
 - b. At least fifty percent of the directors of the centers for independent living serving the state or the directors' designated representatives as chosen by all the directors of centers for independent living serving the state.
 - c. Ex officio nonvoting members who are representatives from the designated state agency and representatives from other state agencies that provide services to individuals with disabilities.
 - d. Additional members may be:
 - (1) Representatives from centers for independent living;

- (2) ~~Parents and guardians of individuals with disabilities;~~
 - (3) ~~Advocates of and for individuals with disabilities;~~
 - (4) ~~Representatives from private businesses;~~
 - (5) ~~Representatives from organizations that provide services for individuals with disabilities; and~~
 - (6) Other appropriate individuals may not be established as an entity within a state agency, including a designated state entity. The council must be independent of and autonomous from the designated state entity and all other state agencies.
3. ~~The council must be composed of members who provide statewide representation, who represent a broad range of individuals with disabilities, and who are knowledgeable about the independent living philosophy and centers for independent living services and programs.~~
 4. ~~A member of the council may not serve more than two consecutive three-year terms. The two consecutive three-year term limit does not include the term of a member appointed to fill a vacancy occurring before the expiration of the term for which appointed or the reduced terms of service of the members initially appointed to provide for the expiration of terms on a staggered basis as specified by the appointing authority. Any vacancy occurring in the membership of the council must be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.~~At least fifty percent of the directors of the centers for independent living serving the state, or a designee if unable to meet the residency requirements of the state, must be members.

SECTION 4. AMENDMENT. Section 50-06.5-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-04. Duties of the statewide independent living council.

The council shall:

1. ~~Jointly develop and submit, in conjunction with the designated state agency, the state plan as required.~~
2. ~~Monitor, review, and evaluate the implementation of the state plan.~~
3. ~~Coordinate activities with councils that address the needs of specific disability populations and issues under other federal and state law.~~
4. ~~Prepare reports and make recommendations, as necessary, to the governor, legislative assembly, and designated state agency~~ fulfill the duties as set forth in section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.] which include developing, monitoring, implementing the state plan for independent living; developing or assisting in the development of required state and federal reports; recordkeeping; coordinating with other state entities that provide similar or complementary services; and preparing, in conjunction with the designated state entity, a plan for the provision of resources needed to carry out the functions of the state

plan for independent living and as defined within the federal Rehabilitation Act of 1973, as amended.

SECTION 5. AMENDMENT. Section 50-06.5-06 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-06. IndependentCenter for independent living centers.

1. Under the direction set forth in the state plan for independent living, the director, in cooperation with the council, shall award grants to eligible agencies from funds appropriated for this purpose.
2. ~~The director, with the cooperation of the council, may make a grant under this section to any eligible agency that has the power and authority to carry out the purposes of this chapter, that is determined by the director and the council to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances, and that submits an application to the director as required.~~
3. In the administration of this section, the designated state agency~~entity~~ shall award grants to any eligible agency that is receiving funds for this purpose on June 30, 1992, unless the director finds that the agency involved fails to meet program and fiscal standards and assurances.
- 4.3. The minimum annual allocation for each center must be established in response to recommendations of the council. Priority for distribution of these funds is as follows:
 - a. Centers funded through title VII of the Rehabilitation Act of 1973, as amended, but receiving less than the minimum annual allocation.
 - b. New centers for independent living as planned by the council.
 - e. Expansion of current centers to serve unserved or underserved areas of the state.
5. ~~If there is no center for independent living serving a region or a region is underserved and funds are sufficient to support an additional center for independent living within the state, the director may award a grant under this section to the most qualified applicant consistent with the state plan and setting forth design of the state for establishing a statewide network of centers for independent living.~~

SECTION 6. AMENDMENT. Section 50-06.5-07 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-07. Standards and assurances.

1. Each center for independent living that receives assistance under this chapter ~~must~~shall comply with the standards and assurances set out in subsection 2section 796f-4 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.] to ensure that all programs and activities are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter.
2. ~~The standards are:~~

- a. ~~The center shall promote and practice the independent living philosophy of:~~
 - (1) ~~Consumer control of the center, regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;~~
 - (2) ~~Self-help and self-advocacy;~~
 - (3) ~~Development of peer relations and peer role models; and~~
 - (4) ~~Equal access of individuals with disabilities to society and to all services, programs, activities, resources, and facilities whether public or private and regardless of the funding source.~~
 - b. ~~The center shall provide services to individuals with a range of disabilities. The center shall provide services on a cross-disability basis for individuals with different types of disabilities, including individuals with disabilities who are members of populations that are unserved or underserved. Eligibility for services at any center for independent living may not be based on the presence of any one or more specific disabilities.~~
 - e. ~~The center shall facilitate the development and achievement of independent living goals selected by individuals who seek that assistance by the center.~~
 - d. ~~The center shall work to increase the availability and improve the quality of community options for independent living to facilitate the development and achievement of independent living goals by individuals with disabilities.~~
 - e. ~~The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.~~
 - f. ~~The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with disabilities.~~
 - g. ~~The center shall conduct resource development activities to obtain funding from sources other than that available under this chapter.~~
3. The applicant shall provide, as the council may require, satisfactory assurance that:
- a. The applicant is an eligible agency.
 - b. The center will be designed and operated within local communities by individuals with ~~disabilities~~a disability, including an assurance that the center will have a board that is the principal governing body of the center and a majority of that board will be composed of individuals with ~~disabilities~~a significant disability.
 - c. The applicant will comply with the standards and assurances set forth in this section.

- d. The applicant will establish clear priorities through annual and three-year programs and financial planning objectives for the center, including overall goals or mission for the center, a work plan for achieving the goals or mission, specific objectives, services priorities, and types of services to be provided along with a description that demonstrates how the proposed activities of the applicant are consistent with the most recent three-year state plan for independent living.
- e. The applicant will use sound organization, personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with ~~disabilities~~ a significant disability on the same terms and conditions required with respect to the employment of individuals with ~~disabilities~~ a disability under section 503796m of the federal Rehabilitation Act of 1973, as amended, and the federal Americans with Disabilities Act.
- f. The applicant will ensure that the majority of its staff, and individuals on its staff in decisionmaking positions, are individuals with ~~disabilities~~ significant disability.
- g. The applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit or review.
- h. The applicant will conduct annual self-evaluations, prepare an annual report, and maintain records, adequate to measure performance with respect to the standards containing information regarding, at least:
 - (1) The extent to which the center is in compliance with the standards and assurances.
 - (2) The numbers and types of individuals with ~~disabilities~~ a significant disability receiving services through the center.
 - (3) The types of services provided through the center and the number of individuals with ~~disabilities~~ a significant disability receiving each type of service.
 - (4) The source and amounts of funding for the operation of the center.
 - (5) The number of individuals with ~~disabilities~~ a significant disability who are employed by, and the number who are in management and decisionmaking positions in the center.
 - (6) The comparison, when appropriate, of the activities of the center in prior years, with the activities of the center in the most recent year.
- i. Individuals with ~~severe disabilities~~ a significant disability who are seeking services from the center will be notified by the center of the existence of the availability of the client assistance program and a way to contact that program.
- j. Aggressive outreach, regarding services provided through the center, will be conducted in an effort to reach populations of individuals with ~~disabilities that~~ a disability which are unserved or underserved by programs

under this chapter, especially minority groups and urban and rural populations.

- k. Staff at centers for independent living will receive training on how to serve the unserved and underserved populations, including minority groups and urban and rural populations.
- l. The center will submit to the council a copy of its ~~approved grant application~~ annual report and the annual audit or review required under subdivision g.
- m. The center will prepare and submit a report to the designated state agency/entity, at the end of each fiscal year, that contains the information described in subdivision h ~~and information regarding the extent to which the center is in compliance with the standards set forth in subsection 2.~~
- n. ~~Each individual receiving independent living services will have an independent living plan if that individual requests one.~~

4-3. Services may be provided under this chapter to an individual with a significant disability regardless of age, to the parents and family of an individual with a significant disability, and to others in the community.

SECTION 7. AMENDMENT. Section 50-06.5-08 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-08. Independent living services and programs.

From sums appropriated in addition to those allocated for centers for independent living centers, the designated state agency/entity may allocate funds, pursuant to the state plan:

- ~~1. To demonstrate ways to expand and improve independent living services.~~
- ~~2. To for independent living to support the operation of centers for independent living.~~
- ~~3. To support activities to increase the capacities of centers for independent living to develop comprehensive approaches or systems for providing independent living services.~~
- ~~4. To conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to policymakers to enhance independent living services for individuals with disabilities.~~
- ~~5. To train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy.~~
- ~~6. To provide outreach to populations that are unserved or underserved by programs under this chapter, including minority groups and urban and rural populations.~~

SECTION 8. A new section to chapter 50-06.5 of the North Dakota Century Code is created and enacted as follows:

Duties of the designated state entity.**The designated state entity:**

1. Must be responsible for the establishment and maintenance of a council that meets the requirements of section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
2. Shall receive, account for, and disburse funds received, including title 29, United States Code, subchapter VII, part B funding; state matching funds; and other state funds allocated for centers for independent living and maintenance of the council as set forth in the state plan for independent living.
3. Shall ensure the council receives necessary and sufficient resources needed to fulfill the council's statutory duties and authorities under section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.], consistent with the state plan for independent living and in a manner consistent with state and federal regulations.
4. Shall comply with all applicable federal and state laws and regulations.
5. Shall sign the state plan for independent living signifying agreement to execute the responsibilities of the designated state entity identified in section 796c of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
6. Shall assist the council in the development of the plan for the provision of resources, including personnel necessary to carry out the functions of the council.

SECTION 9. REPEAL. Section 50-06.5-05 of the North Dakota Century Code is repealed.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 402

SENATE BILL NO. 2112

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-09-02.2 of the North Dakota Century Code, relating to adoptive placement of children with special needs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁰ **SECTION 1. AMENDMENT.** Section 50-09-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-09-02.2. Assistance for adopted children with special needs.

Assistance provided under this chapter or chapter 50-24.1 after adoption to a child with special needs must be provided without regard to the income or resources of the adopting parents. Except as provided in this section, such assistance continues until the adopted child becomes eighteen years of age, is emancipated, or dies; the adoption is terminated; or a determination of ineligibility is made by the county agency, whichever occurs earlier. If sufficient funds are available, the county agency may continue assistance for an adopted child until the child reaches twenty-one years of age if the agency determines that the adopted child is a student regularly attending a secondary, postsecondary, or career and technical education school in pursuance of a course of study leading to a diploma, degree, or gainful employment. Assistance provided to an adopted child must continue regardless of the residence of the adopting parents. A state or county agency may require, as a condition of receiving assistance under this chapter or chapter 50-24.1, that the adopting parents enter into a contract or agreement regarding the type of assistance to be received; the amount of assistance; the identity of the physical, mental, or emotional condition for which medical assistance is received; or any conditions for continued receipt of assistance. A child with special needs is a child legally available for adoptive placement whose custody has been awarded to the department or a county social service board and who is seven years of age or older; under eighteen years of age with a physical, emotional, or mental disability or has been diagnosed by a licensed physician, physician assistant, or advanced practice registered nurse to be at high risk for such a disability; a member of a minority; or a member of a sibling group.

Approved March 20, 2019

Filed March 21, 2019

¹⁸⁰ Section 50-09-02.2 was also amended by section 96 of Senate Bill No. 2124, chapter 391.

CHAPTER 403

SENATE BILL NO. 2113

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-10.2 of the North Dakota Century Code, relating to authorized electronic monitoring of facility residents; to amend and reenact sections 12.1-31-14 and 50-10.2-01 of the North Dakota Century Code, relating to authorized electronic monitoring of facility residents and privacy; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸¹ **SECTION 1. AMENDMENT.** Section 12.1-31-14 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-14. Surreptitious intrusion or interference with privacy.

1. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of another, the individual:
 - a. Enters upon another's property and surreptitiously gazes, stares, or peeps into a house or place of dwelling of another; or
 - b. Enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.
2. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of an occupant, the individual:
 - a. Surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy; or
 - b. Surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy.
3. In a prosecution under this section, it is an affirmative defense that an individual was acting pursuant to section 3 of this Act.

SECTION 2. AMENDMENT. Section 50-10.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-10.2-01. Definitions.

¹⁸¹ Section 12.1-31-14 was also amended by section 1 of House Bill No. 1503, chapter 116.

In this chapter, unless the context or subject matter otherwise requires:

1. "Authorized electronic monitoring" means the placement and use of an authorized electronic monitoring device, by a resident or resident representative, in the resident's room.
2. "Authorized electronic monitoring device" means video surveillance cameras, monitoring devices, web-based cameras, video phones, or audio recording or transmitting devices, or a combination of these devices, installed in the room of a resident which are designed to acquire, transmit, broadcast, interact, or record video, communications, or other sounds occurring in the room. The term does not include still cameras or devices used for the purpose of the resident having contact with another person but not for the purpose of electronically monitoring a resident.
3. "Conflict of interest" means any type of ownership in a facility or membership on the governing body of a facility by a provider of goods or services to that facility or by a member of that person's individual's immediate family.
- 2-4. "Department" means the department of human services.
- 3-5. "Facility" means a skilled nursing care facility, basic care facility, assisted living facility, or swing-bed hospital approved to furnish long-term care services.
- 4-6. "Immediate family" means husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepchild, uncle, aunt, niece, nephew, or grandchild.
- 5-7. "Remodeling" means any alteration in structure, refurbishing, or repair that would:
 - a. Prevent the facility staff from providing customary and required care; or
 - b. Seriously endanger or inconvenience any resident with noise, dust, fumes, inoperative equipment, or the presence of remodeling workers.
- 6-8. "Resident" means a person an individual residing in a facility.
9. "Resident representative" means a person authorized to act as a resident's agent under power of attorney for health care or guardianship.

SECTION 3. A new section to chapter 50-10.2 of the North Dakota Century Code is created and enacted as follows:

Authorized electronic monitoring - Penalty.

1. A facility shall permit a resident or the resident representative to conduct authorized electronic monitoring of the resident's room through an authorized electronic monitoring device if:
 - a. The authorized electronic monitoring device is placed in the resident's room;
 - b. The electronic monitoring device is placed in a fixed, stationary position; monitors only the area occupied by the resident and not the area occupied

- by the resident's roommate; and protects the privacy and dignity of the resident;
- c. The facility is given written notice of the placement and use which must include an installation plan in compliance with the facility's standards and regulations the facility provides to the resident;
 - d. A video tape or recording created using an authorized electronic monitoring device records the date and time;
 - e. All costs, except for electricity, associated with the authorized electronic monitoring device, including installation, operation, removal, repairs, room damage, and maintenance, are paid by the resident or resident representative who initiated the use of the authorized electronic monitoring device; and
 - f. A signed authorization for the disclosure of protected health information, as defined by title 45, Code of Federal Regulations, part 160, section 103, compliant with the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.] and consenting to the use of the device is given by each resident occupying the same room, or by that resident's resident representative in accordance with subsection 4.
2. A facility that uses an authorized electronic monitoring device in compliance with this chapter is not guilty of a crime or civilly liable under this code for a violation of a resident's privacy.
 3. The facility shall cooperate to accommodate the placement of the authorized electronic monitoring device, unless doing so would place undue burden on the facility.
 4. Before placing and using the authorized electronic monitoring device, a resident or resident representative shall obtain the signed authorization of any other resident residing in the room in accordance with subsection 1. The authorization may be signed by that resident's resident representative.

 - a. The resident's or the resident representative's authorization may limit the use of an authorized electronic monitoring device to only audio monitoring or only video monitoring and may limit the device's time of operation, direction, and focus.
 - b. At any time, a resident or resident representative who did not request the authorized electronic monitoring device in the resident's room may withdraw, in writing, the signed authorization for the use of the device. The resident who requested the device or the resident's resident representative is responsible for having the device disabled in compliance with the facility's standards and regulations after receipt of the written withdrawal.
 5. The facility shall make a reasonable attempt to accommodate a resident if a resident or resident representative of a resident who is residing in a shared room wants to have an authorized electronic monitoring device placed in the room and another resident living in the same shared room refuses to authorize the use of the authorized electronic monitoring device.

6. If authorized electronic monitoring is being conducted in the room of a resident, and another resident will be moved into the room, the resident who requested the device or the resident's resident representative is responsible for having the existing authorized electronic monitoring device disabled in compliance with the facility's standards and regulations unless the new resident or the resident's resident representative authorizes the device pursuant to subsections 1 and 4.
7. A facility may not refuse to admit an individual and may not remove a resident from a facility because of authorized electronic monitoring of a resident's room. A person may not intentionally retaliate or discriminate against a resident for authorization of authorized electronic monitoring.
8. A facility clearly and conspicuously shall post a sign where authorized electronic monitoring is being conducted to alert and inform visitors.
9. A facility or staff of the facility may not access any video or audio recording created through an authorized electronic monitoring device placed in a resident's room without the written consent of the resident or resident representative or court order.
10. A person that intentionally hampers, obstructs, tampers with, or destroys a recording or an authorized electronic monitoring device placed in a resident's room, without the express written consent of the resident or resident representative, is subject to a class B misdemeanor. A person that places an electronic monitoring device in the room of a resident or which uses or discloses a tape or other recording made by the device may be guilty of a crime or civilly liable for any unlawful violation of the privacy rights of another. In any civil proceeding, administrative proceeding, or survey process, material obtained through the use of an authorized electronic monitoring device may not be used if a person intentionally hampered, obstructed, or tampered with the material without the express written consent of the resident or resident representative, or if the material was obtained through the operation of an electronic monitoring device which was not compliant with this section.
11. A person may not intercept a communication or disclose or use an intercepted communication of an authorized electronic monitoring device placed in a resident's room, without the express written consent of the resident or the resident representative.

Approved April 11, 2019

Filed April 12, 2019

CHAPTER 404

HOUSE BILL NO. 1102

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to criminal history record investigation on identified relatives; to amend and reenact subdivision f of subsection 2 of section 12-60-24, section 25-03.2-03.1, subsection 9 of section 43-12.1-04, subsection 21 of section 50-06-05.1, subsection 1 of section 50-11-00.1, and sections 50-11-00.1, 50-11-01, 50-11-02.3, and 50-11-06.8 of the North Dakota Century Code, relating to criminal history record checks on identified relatives, residential child care facilities, qualified residential treatment program, supervised independent living program, approved foster care facilities, moratorium, and criminal history records investigation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸² **SECTION 1. AMENDMENT.** Subdivision f of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- f. The department of human services for foster care licenses and approvals, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.

SECTION 2. AMENDMENT. Section 25-03.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-03.1. Moratorium on expansion of psychiatric residential treatment facility for children bed capacity - Exchange of bed capacity.

1. Notwithstanding sections 25-03.2-03 and 25-03.2-08, unless a needs assessment conducted by the department indicates a need for the licensing of additional bed capacity, the department may not issue a license under this chapter for any additional bed capacity for a psychiatric residential treatment facility for children above the state's gross number of beds licensed as of June 30, 2003. This subsection does not apply to nor prohibit the department from licensing additional bed capacity for a new psychiatric residential treatment facility for children if the additional beds are designated for the care of children and adolescents who are residents of other states.

¹⁸² Section 12-60-24 was also amended by section 1 of House Bill No. 1074, chapter 102, section 1 of House Bill No. 1084, chapter 100, section 1 of House Bill No. 1219, chapter 239, section 2 of House Bill No. 1349, chapter 61, and section 1 of House Bill No. 1376, chapter 101.

2. Notwithstanding subsection 1, the department may develop a policy to:
 - a. Exchange ~~residential child care facility~~qualified residential treatment program bed capacity licensed under chapter 50-11 with psychiatric residential treatment facility bed capacity; or
 - b. Exchange psychiatric residential treatment facility bed capacity with ~~residential child care facility~~qualified residential treatment program bed capacity licensed under chapter 50-11.

¹⁸³ **SECTION 3. AMENDMENT.** Subsection 9 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. A person that provides medications, other than by the parenteral route:
 - a. Within a correctional facility, in compliance with section 12-44.1-29;
 - b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
 - c. Within a treatment or care center for individuals with developmental disabilities licensed under chapter 25-16;
 - d. Within a group home, a ~~residential child care facility~~qualified residential treatment program, or an adult foster care facility licensed under section 50-11-01 ~~or North Dakota Administrative Code chapter 75-03-16~~;
 - e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of human services;
 - f. Within a human service center licensed under chapter 50-06; or
 - g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.

¹⁸⁴ **SECTION 4. AMENDMENT.** Subsection 21 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

21. To administer, allocate, and distribute any funds made available for the payment of ~~transitional supervised independent living services, to develop standards and conduct needs assessments regarding transitional a supervised independent living services, to develop or approve and to evaluate demonstration projects offering transitional living programs~~program, to approve ~~transitional supervised independent living facilities~~services for the purpose of providing foster care placement, and to apply for and administer

¹⁸³ Section 43-12.1-04 was also amended by section 1 of House Bill No. 1099, chapter 405.

¹⁸⁴ Section 50-06-05.1 was also amended by section 10 of Senate Bill No. 2055, chapter 438, section 11 of Senate Bill No. 2055, chapter 438, section 81 of Senate Bill No. 2124, chapter 391, and section 1 of Senate Bill No. 2313, chapter 394.

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.~~

SECTION 5. AMENDMENT. Subsection 1 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Approval" means the approval by the department, upon submission of tribal licensing standards or in the absence of tribal licensing standards compliance with state standards, of a home of a Native American family facility located on or near, as defined by the tribe, a recognized Indian reservation in North Dakota or of a facility owned by the tribe or a tribal member and located on a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the ~~home or~~ facility to receive title IV-E funding.

¹⁸⁵ **SECTION 6. AMENDMENT.** Section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-00.1. Definitions.

As used in this chapter:

1. "Approval" means the approval by the department, upon submission of tribal licensing standards or in the absence of tribal licensing standards compliance with state standards, of a facility located on or near, as defined by the tribe, a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the facility to receive title IV-E funding.
2. "Authorized agent" means the county social service board, unless another entity is designated by the department.
3. "Department" means the department of human services.
4. "Facility" means a foster home for adults, family foster home for children, group homesupervised independent living program, or residential child care ~~facility~~qualified residential treatment program for children.

¹⁸⁵ Section 50-11-00.1 was also amended by section 2 of House Bill No. 1099, chapter 405, and section 109 of Senate Bill No. 2124, chapter 391.

5. "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof the residence to no more than ~~four~~^{six} children, ~~unless all the children in foster care are related to each other by blood or marriage or unless the department approves otherwise for the placement of siblings, in which case the limitation in this subsection does not apply.~~
6. "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the home of a caregiver, to a ~~person~~^{an individual} age eighteen or older, who is unable, neglects, or refuses to provide for the ~~person's~~^{individual's} own care.
7. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, ~~group homes~~^{supervised independent living program}, or qualified residential child care facility~~treatment program~~.
8. "Foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee of the residence, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
9. "~~Group home~~" means a ~~licensed or approved residence in which foster care is regularly provided to at least four, but fewer than thirteen, unrelated children.~~
10. "~~Residential child care facility~~" means a ~~licensed or approved facility other than an occupied private residence providing foster care to thirteen or more unrelated children, except as may be otherwise provided by rule or regulation.~~"Identified relative" means:
 - a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
 - d. The child's stepparent.
10. "Qualified residential treatment program" means a licensed or approved residence providing an out-of-home treatment placement for children.
11. "Supervised independent living program" means a licensed or approved setting providing supervision and service delivery to youth transitioning into adulthood.

SECTION 7. AMENDMENT. Section 50-11-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01. Foster care for children - License or approval required.

No person

1. A person may not furnish foster care for children for more than thirty days during a calendar year without first procuring a license or approval to do so from the department. The mandatory provisions of this section requiring licensure or approval do not apply when the care is provided in:
 4. a. The home of a person related to the child by blood or marriagean identified relative.
 2. b. A home or institution under the management and control of the state or a political subdivision.
 3. c. A home or facility furnishing room and board primarily to accommodate the child's educational or career and technical education needs.

A person

2. An individual providing care under subdivision a of subsection 1 shall submit to a criminal history record investigation as required under section 50-11-06.8.

SECTION 8. AMENDMENT. Section 50-11-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02.3. ~~Moratorium on expansion of~~Maximum qualified residential child care facility or group hometreatment program bed capacity.

~~Notwithstanding sections 50-11-02 and 50-11-09, unless a needs assessment conducted by the department indicates a need for the licensing of additional bed capacity, the department may not issue a license under this chapter for any additional bed capacity for a residential child care facility or a group home above the state's gross number of beds licensed as of June 30, 2003shall determine the maximum number of licensed qualified residential treatment program bed capacity for children based upon a needs assessment conducted by the department.~~

¹⁸⁶ **SECTION 9. AMENDMENT.** Section 50-11-06.8 of the North Dakota Century Code is amended and reenacted as follows:

50-11-06.8. Criminal history record investigation - Fingerprinting required.

1. Each facility providing foster care for children shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
 - a. Any individual employed by, or providing care in, the facility; and
 - b. Any adult living in the facility, but not being provided care in the facility.

¹⁸⁶ Section 50-11-06.8 was also amended by section 4 of House Bill No. 1099, chapter 405.

2. Each identified relative, at the request by the department, shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from any adult living in the home of the identified relative.
3. The facility or identified relative shall assure that information obtained under ~~subsection 4~~subsections 1 and 2 is provided to the department.
- ~~3-4.~~ Upon receipt of all fingerprints and necessary information relating to a ~~license request~~criminal history record investigation, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of ~~any~~the state criminal history record information response received from the bureau of criminal investigation to the facility, public agency, or authorized agent making the request.
- ~~4-5.~~ The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department. The bureau of criminal investigation also shall ~~also~~ provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
- ~~5-6.~~ Upon request by the operators of a facility, employees of a facility, or identified relative, a law enforcement agency shall take fingerprints of ~~persons~~individuals described in this section if the request is made for purposes of this section.
- ~~6-7.~~ The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check.
- ~~7-8.~~ An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.
- ~~8-9.~~ Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall secure from a law enforcement agency or any other agency authorized to take fingerprints two sets of fingerprints and all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
 - a. Any individual employed by, or providing care in, an adult family foster care facility; and
 - b. Any adult living in an adult family foster care facility, but not being provided care in the facility.
- ~~9-10.~~ A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11.3-01 and 50-12-03.2.

SECTION 10. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Identified relative - Criminal history record investigation.

1. The department may require an identified relative and any adult living in the home of the identified relative to go through a criminal history record investigation pursuant to section 50-11-06.8.
2. If the department requires a criminal history record investigation pursuant to subsection 1, the department shall consider an identified relative and any adult living in the home of the identified relative as a family foster home for children applicant, family foster home for children provider, or members of the family foster home for children for the purpose of determining the impact of the individual's criminal history record investigation on the individual's ability to provide foster care for children.

SECTION 11. EFFECTIVE DATE. Section 5 of this Act becomes effective August 1, 2019. The remainder of this Act becomes effective on October 1, 2019.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 405

HOUSE BILL NO. 1099

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 43-12.1-04, 50-11-00.1, 50-11-02.4, 50-11-06.8, 50-11-06.9, and 50-24.1-18 of the North Dakota Century Code, relating to the delegation of administration of routine medications to a qualified service provider, agency foster homes for adults, criminal history record investigations, and the implementation of residential habilitation and community support services in a residential setting or private residence; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁷ **SECTION 1. AMENDMENT.** Section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-04. Persons exempt from provisions of chapter.

This chapter does not apply to a person that is not licensed or registered under this chapter and is:

1. A person that performs nursing interventions in cases of emergency or disaster.
2. A student practicing nursing as a part of an in-state board-approved nursing education program.
3. A licensed nurse of another state who is in good standing and who is employed in this state by the United States government or any of its bureaus, divisions, or agencies.
4. A nurse licensed by another state or Canada, whose employment requires the nurse to accompany and care for a patient in transit for health care.
5. A nurse licensed by another state whose employment by a resident of that state requires the nurse to accompany and care for the resident in North Dakota.
6. An individual who performs nursing tasks for a family member.
7. A person that renders assistance pursuant to chapter 23-27.
8. A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.
9. A person that provides medications, other than by the parenteral route:

¹⁸⁷ Section 43-12.1-04 was also amended by section 3 of House Bill No. 1102, chapter 404.

- a. Within a correctional facility, in compliance with section 12-44.1-29;
 - b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
 - c. Within a treatment or care center for individuals with developmental disabilities licensed under chapter 25-16;
 - d. Within a group home, a residential child care facility, or an adult foster care facility licensed under section 50-11-01 or North Dakota Administrative Code chapter 75-03-16;
 - e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of human services;
 - f. Within a human service center licensed under chapter 50-06; or
 - g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian; or
 - h. Who is an employee of a qualified service provider agency who meets the criteria set forth in subsection 2 of section 50-24.1-18.
10. A nurse currently licensed to practice nursing by another jurisdiction:
 - a. Whose practice in another state requires that nurse to attend orientation, meetings, or continuing education in North Dakota;
 - b. Who serves as a guest lecturer or short-term consultant; or
 - c. Who provides evaluation undertaken on behalf of an accrediting organization.
 11. An individual, including a feeding assistant, performing nonhands-on tasks while employed in a Medicare-funded organization.
 12. A student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability.
 13. An individual who is registered on the state department of health nurse aide registry, including a certified nurse aide, home health aide, nurse aide, and medication assistant.

¹⁸⁸ **SECTION 2. AMENDMENT.** Section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-00.1. Definitions.

As used in this chapter:

¹⁸⁸ Section 50-11-00.1 was also amended by section 6 of House Bill No. 1102, chapter 404, and section 109 of Senate Bill No. 2124, chapter 391.

1. "Agency foster home for adults" means a residential home in which foster care for adults is regularly provided by professional staff trained to provide services to older adults or adults with a disability, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
2. "Approval" means the approval by the department of a home of a Native American family located on a recognized Indian reservation in North Dakota or of a facility owned by the tribe or a tribal member and located on a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the home or facility to receive title IV-E funding.
- ~~2-3.~~ "Authorized agent" means the county social service board, unless another entity is designated by the department.
- ~~3-4.~~ "Department" means the department of human services.
- ~~4-5.~~ "Facility" means a foster home for adults, agency foster home for adults, family foster home for children, group home, or residential child care facility for children.
- ~~5-6.~~ "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof ~~of the residence~~ to no more than four children, unless all the children in foster care are related to each other by blood or marriage or unless the department approves otherwise for the placement of siblings, in which case the limitation in this subsection does not apply.
- ~~6-7.~~ "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the residential home of a caregiver or agency, to ~~a person an individual~~ age eighteen or older, who is unable, neglects, or refuses to provide for the ~~person's individual's~~ own care.
- ~~7-8.~~ "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, group home, or residential child care facility.
- ~~8-9.~~ "Foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee of the residence, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
- ~~9-10.~~ "Group home" means a licensed or approved residence in which foster care is regularly provided to at least four, but fewer than thirteen, unrelated children.
- ~~10-11.~~ "Residential child care facility" means a licensed or approved facility other than an occupied private residence providing foster care to thirteen or more unrelated children, except as may be otherwise provided by rule or regulation.

SECTION 3. AMENDMENT. Section 50-11-02.4 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02.4. Criminal history record investigation for foster care for adults - Fingerprinting not required.

1. Except as provided in section 50-11-06.9, the department shall secure from any individual employed by, or providing care in, ~~an adult family foster care~~ a facility providing foster care for adults and any adult living in the facility, but not being provided care in the facility, identifying information other than fingerprints, that is appropriate to accomplish a statewide criminal history record investigation.
2. Fingerprints need not be taken and a nationwide background check need not be made if an individual:
 - a. Has resided continuously in this state for eleven years or since reaching age eighteen, whichever is less;
 - b. Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or
 - c. Is excused from providing fingerprints under rules adopted by the department.
3. The department shall verify that sufficient identifying information has been provided. Upon verification, the department shall submit that information to the bureau of criminal investigation.
4. The bureau of criminal investigation shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.
5. The department shall pay the cost of securing any criminal history record information made available under chapter 12-60 and section 50-11-06.8 for foster home for adults. An agency foster home for adults is responsible for the cost of securing any criminal history record information made available under chapter 12-60 and section 50-11-06.8.
6. The department shall consult with the bureau of criminal investigation to determine the identifying information, other than fingerprints, appropriate to accomplish a statewide criminal history record investigation.
7. The department may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

¹⁸⁹ **SECTION 4. AMENDMENT.** Section 50-11-06.8 of the North Dakota Century Code is amended and reenacted as follows:

50-11-06.8. Criminal history record investigation - Fingerprinting required.

¹⁸⁹ Section 50-11-06.8 was also amended by section 9 of House Bill No. 1102, chapter 404.

1. Each facility providing foster care for children shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
 - a. Any individual employed by, or providing care in, the facility; and
 - b. Any adult living in the facility, but not being provided care in the facility.
2. The facility shall assure that information obtained under subsection 1 is provided to the department.
3. Upon receipt of all fingerprints and necessary information relating to a license request, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.
4. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department. The bureau shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
5. Upon request by the operators of a facility, a law enforcement agency shall take fingerprints of persons described in this section if the request is made for purposes of this section.
6. The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check for each facility providing foster care for children.
7. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.
8. Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall secure from a law enforcement agency or any other agency authorized to take fingerprints two sets of fingerprints and all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
 - a. Any individual employed by, or providing care in, ~~an adult family foster care~~ facility providing foster care for adults; and
 - b. Any adult living in ~~an adult family foster care~~ facility providing foster care for adults, but not being provided care in the facility.
9. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11.3-01 and 50-12-03.2.

SECTION 5. AMENDMENT. Section 50-11-06.9 of the North Dakota Century Code is amended and reenacted as follows:

50-11-06.9. Criminal history record investigation for foster home for adults - When not required.

A criminal history record investigation may not be required, under section 50-11-06.8 or 50-11-02.4, of a family foster care home for adults licensed or approved on August 1, 1999, for so long as that home remains continuously licensed or approved.

¹⁹⁰ **SECTION 6. AMENDMENT.** Section 50-24.1-18 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-18. Personal care option - Basic care facilities - Residential habilitation - Community support services.

1. The department of human services may implement a personal care option benefit program. Personal care option benefits may only be made available to qualifying individuals who reside in basic care facilities. As used in this section, "basic care facility" has the meaning provided in section 23-09.3-01.
2. The department may implement residential habilitation and community support services in a residential setting or private residence that would allow for the delegation of administration of medication by an employee of a qualified service provider agency. The qualified service provider agency shall employ or contract with a licensed registered nurse to provide supervision to the employees of a qualified service provider agency who are administering routine medications. The employees of a qualified service provider agency shall complete department-approved training on the administration of routine medications before administering routine medications. The department shall adopt rules as are necessary to establish and govern residential habilitation and community support services in a residential setting or private residence.

SECTION 7. IMPLEMENTATION CONTINGENT UPON APPROPRIATION - APPLICATION. The department of human services is not required to implement or enforce sections 1, 2, 3, 4, and 6 of this Act with respect to agency foster home for adults and administration of routine medication if the legislative assembly does not provide an appropriation to support the implementation and enforcement of sections 1, 2, 3, 4, and 6 of this Act.

SECTION 8. CONTINGENT IMPLEMENTATION - APPLICATION. The department of human services may not implement residential habilitation and community supports in section 6 of this Act unless the sixty-sixth legislative assembly provides an appropriation in Senate Bill No. 2012 to support the implementation of residential habilitation and community supports in section 6 of this Act.

Approved March 20, 2019

Filed March 21, 2019

¹⁹⁰ Section 50-24.1-18 was also amended by section 25 of House Bill No. 1115, chapter 408.

CHAPTER 406

SENATE BILL NO. 2245

(Senators Hogan, Bekkedahl, Kreun)
(Representatives K. Koppelman, Schneider, Schreiber-Beck)

AN ACT to amend and reenact sections 50-11.1-02 and 50-11.1-04, subsection 10 of section 50-11.1-06.2, subsection 1 of section 50-11.1-07.2, sections 50-11.1-07.3 and 50-11.1-07.5, subsection 3 of section 50-11.1-17, and subsection 13 of section 50-25.1-02 of the North Dakota Century Code, relating to early childhood services and the definition of a neglected child; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹¹ **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.

¹⁹¹ Section 50-11.1-02 was also amended by section 110 of Senate Bill No. 2124, chapter 391.

- 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~~15.1-06-06.1.
 - 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.
 9. "Group child care" means a child care program licensed to provide early childhood services for thirty 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.
24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
25. "Staff member" means an individual:
 - a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration; ~~or~~
 - b. Whose activities involve the care, supervision, or guidance of children ~~for~~of an early childhood program; or
 - c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

¹⁹² **SECTION 2. AMENDMENT.** Section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

¹⁹² Section 50-11.1-04 was also amended by section 1 of Senate Bill No. 2043, chapter 407.

50-11.1-04. Application for license - Prerequisites for issuance - License granted - Term.

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing:
 - a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and are maintained according to rules adopted by the department;
 - b. Staff members are qualified to fulfill the duties required of them according to the provisions of this chapter and standards prescribed for their qualifications by the rules of the department;
 - c. The application and supporting documents do not include any fraudulent or untrue representations;
 - d. The owner, operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the owner, operator, or applicant;
 - e. The owner, operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within the five~~three~~ years immediately preceding the application date;
 - f. The program paid its license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
 - g. The family child care owner or operator and staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation and, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and are currently certified in first aid by a program approved by the department; and
 - h. The group child care, preschool, school-age child care, or child care center, at all times during which early childhood services are provided, staff members have received training and are currently certified in infant

and pediatric cardiopulmonary resuscitation ~~and~~, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and currently certified in first aid by a program approved by the department.

2. The license issued to the owner or operator of an early childhood program may not be effective for longer than two years.
3. The department may consider the applicant's past licensing, self-declaration, and registration history in determining whether to issue a license.
4. The department may issue a provisional or restricted license in accordance with the rules of the department. The department shall consider issuing a provisional or restricted license before revoking a license. The department may require the owner or operator of an early childhood program to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted license. The department shall approve the provisional license if the department approves the compliance plan. The department may revoke a license if the owner and operator fail to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.
5. The department shall notify the owner or operator that the owner or operator is required to post a notice of late application at the early childhood program premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of the early childhood program's license.

SECTION 3. AMENDMENT. Subsection 10 of section 50-11.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

10. A~~Unless an individual was separated from childcare employment for more than one hundred eighty days,~~ a criminal history record check conducted under this section and subsection 3 of section 50-06-01.9 is valid for five years, after which the department shall require another criminal history record check.

SECTION 4. AMENDMENT. Subsection 1 of section 50-11.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 5. AMENDMENT. Section 50-11.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.3. Reinspections.

The department or the department's authorized agent shall reinspect or review an early childhood program or holder of a self-declaration ~~that was~~ issued a correction order under section 50-11.1-07.2, at the end of the period allowed for correction. If, upon reinspection or review, the department determines ~~that~~ the program or holder of a self-declaration has not corrected a violation identified in the correction order, the department shall mail to the program or the holder of a self-declaration, by certified mail, a notice of noncompliance with the correction order. The notice must specify the violations not corrected and the penalties assessed in accordance with section 50-11.1-07.5.

SECTION 6. AMENDMENT. Section 50-11.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.5. Accumulation of fiscal sanctions.

An early childhood program or holder of a self-declaration promptly shall ~~promptly~~ notify the department or the department's authorized agent in writing ~~when~~ if a violation noted in a notice of noncompliance is corrected. Upon receipt of written notice by the department or the department's authorized agent, the daily fiscal sanction assessed for the violation must stop accruing. The department or the department's authorized agent shall reinspect or review the early childhood program or premises out of which the holder of the self-declaration is operating within three working days after receipt of the notification. If, upon reinspection or review, the department determines ~~that~~ a violation has not been corrected, the department shall resume the daily assessment of fiscal sanction and shall add the amount of fiscal sanction which otherwise would have accrued during the period ~~prior to before~~ resumption to the total assessment due from the program or holder of the self-declaration. The department or the department's authorized agent shall notify the facility of the resumption by certified mail. Recovery of the resumed fiscal sanction must be stayed if the operator of the facility makes a written request for an administrative hearing in the manner provided in chapter 28-32; ~~provided, that, if~~ written request for the hearing is made to the department within ten days of the notice of resumption.

¹⁹³ **SECTION 7. AMENDMENT.** Subsection 3 of section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

3. The department may issue a provisional self-declaration document in accordance with the rules of the department. The department shall consider issuing a provisional or restricted self-declaration document before revoking a self-declaration document. The department may require the holder of a self-declaration to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted self-declaration document. The department shall approve the provisional self-declaration document if the department approves the compliance plan. The department may revoke a self-declaration document if the holder of a self-declaration fails to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.

¹⁹³ Section 50-11.1-17 was also amended by section 3 of Senate Bill No. 2043, chapter 407.

¹⁹⁴ **SECTION 8. AMENDMENT.** Subsection 13 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

13. "Neglected child" means a deprived child as defined in chapter 27-20 who, due to the action or inaction of a person responsible for the child's welfare:
 - a. Is without proper care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and is not due primarily to the lack of financial means of a person responsible for the child's welfare;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned;
 - d. Is without proper care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of a person responsible for the child's welfare, and that such lack of care is not due to a willful act of commission or act of omission, and care is requested by a person responsible for the child's welfare;
 - e. Is in need of treatment and a person responsible for the child's welfare has refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure of a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.

SECTION 9. EMERGENCY. Section 8 of this Act is declared to be an emergency measure.

Approved April 23, 2019

Filed April 24, 2019

¹⁹⁴ Section 50-25.1-02 was also amended by section 1 of House Bill No. 1108, chapter 416, section 6 of House Bill No. 1520, chapter 256, section 124 of Senate Bill No. 2124, chapter 391, and section 3 of Senate Bill No. 2273, chapter 108.

CHAPTER 407

SENATE BILL NO. 2043

(Senators Kreun, G. Lee, Poolman, Hogue)
(Representatives Beadle, O'Brien)

AN ACT to amend and reenact subsection 1 of section 50-11.1-04, section 50-11.1-07.8, subsection 1 of section 50-11.1-17, and subsection 2 of section 50-25.1-11 of the North Dakota Century Code, relating to regulation of early childhood services and claims of child abuse and neglect.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁵ **SECTION 1. AMENDMENT.** Subsection 1 of section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing:
 - a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and are maintained according to rules adopted by the department;
 - b. Staff members are qualified to fulfill the duties required of ~~them~~the staff members according to the provisions of this chapter and standards prescribed for ~~their~~staff member qualifications by the rules of the department;
 - c. The application and supporting documents do not include any fraudulent or untrue representations;
 - d. The owner, operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;

¹⁹⁵ Section 50-11.1-04 was also amended by section 2 of Senate Bill No. 2245, chapter 406.

- e. The owner, operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within the five years immediately preceding the application date;
- f. The program paid its license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- g. The family child care owner or operator and staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and are currently certified in first aid by a program approved by the department; and
- h. The group child care, preschool, school-age child care, or child care center, at all times during which early childhood services are provided, staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and currently certified in first aid by a program approved by the department.

SECTION 2. AMENDMENT. Section 50-11.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.8. Suspension of license, self-declaration, or registration document - ~~Investigation~~Assessment upon a report of child abuse or neglect - Notification to parent.

1. The department may:
 - a. Suspend a license, self-declaration, or registration document at any time after the onset of a child abuse and neglect ~~investigation~~assessment alleging the owner or operator, the holder of a self-declaration, or the in-home provider ~~has committed~~;
 - (1) ~~Committed~~ child abuse, including child sexual abuse, ~~or has neglected a child and~~ law enforcement has been involved, ~~if and~~ continued operation is likely to jeopardize the health and safety of the children; or
 - (2) ~~Neglected a child, law enforcement has been involved, and continued operation is likely to jeopardize the health and safety of the children.~~
 - b. Suspend ~~a license, self-declaration, or registration document~~ upon a child abuse or neglect services required determination indicating ~~that~~ a child has been abused or neglected by the owner or operator, the holder of a self-declaration, or the in-home provider, if continued operation is likely to jeopardize the health and safety of the children present.
 - c. Prohibit the presence of an accused owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor

household member of the early childhood program, self-declaration, or in-home provider from the early childhood premises when children are in child care, upon a report of child abuse or neglect at the premises of the ~~licensed early childhood~~ program, holder of the self-declaration, or registration, or involving a staff member or adult or minor household member if continued operation or the presence of the accused individual is likely to jeopardize the health and safety of the children present.

2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
 - a. Shall notify the parent of any child receiving early childhood services ~~when~~if that program's license, self-declaration, or registration document is suspended.
 - b. Shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services ~~when~~if an owner, operator, holder of a self-declaration, in-home provider, ~~adult~~ staff member, or adult or minor household member of the program providing care of the child is ~~under investigation under subsection 4~~the subject of a child abuse and neglect assessment and the department determines:
 - (1) The reported child abuse or neglect places children in the early childhood program, self-declaration, or in-home provider at risk of abuse or neglect; and
 - (2) If the reported child abuse or neglect occurred outside the care, supervision, or guidance of children in an early childhood program, self-declaration, or in-home provider, there was an impact or is a potential impact on care, supervision, or guidance of the children in the early childhood program, self-declaration, or in-home provider.
 - c. Shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services that a an owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member is ~~under investigation~~prohibited from the premises of the early childhood program, self-declaration, or in-home provider under subsection 1 ~~if the staff member or household member is a minor.~~
3. Upon the conclusion and disposition of ~~the investigation~~a child abuse and neglect assessment for which a determination services are required is found or for which the department issued a notice under subsection 2, the department shall ~~notify~~provide notification of the disposition to the parent of each child who at the time of the determination is receiving early childhood services of the disposition.
4. Notwithstanding any provision to the contrary, any action taken under this section may preclude an individual's ability to operate pending an appeal.
5. Notwithstanding subsections 2 and 3:
 - a. The department may reconsider a suspension or prohibition.

- b. If law enforcement requests a delay in notification, the department may delay notifying the owner, operator, holder of a self-declaration, or in-home provider and delay notifying the parent of any child receiving early childhood services. To be valid, a law enforcement request for a notification delay must be provided to the department in writing within forty-eight hours of law enforcement receiving notification of an alleged criminal matter. A notification delay may last up to sixty days and, upon request of law enforcement, may be renewed.

¹⁹⁶ **SECTION 3. AMENDMENT.** Subsection 1 of section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department or the department's authorized agent shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department or the department's authorized agent shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Except as otherwise provided, the department shall approve a self-declaration within thirty days of receipt of a completed application and all supporting documents by the department and upon the applicant's declaration:
 - a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and are maintained according to the standards prescribed by the rules of the department;
 - b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in ~~its~~the rules of the department;
 - c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;
 - d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within five years of the application date;
 - e. The applicant has paid the required application fees;
 - f. The applicant has paid any penalties and sanctions assessed against the program required by sections 50-11.1-03 and 50-11.1-07.4;
 - g. The applicant is currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;

¹⁹⁶ Section 50-11.1-17 was also amended by section 7 of Senate Bill No. 2245, chapter 406.

- h. The emergency designee used by the applicant, if any, is currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;
- i. The applicant is currently certified in first aid through a training program approved by the department; and
- j. The application and supporting documents do not include any fraudulent or untrue representations.

¹⁹⁷ **SECTION 4. AMENDMENT.** Subsection 2 of section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~The~~In accordance with subsection 3 of section 50-11.1-07.8, the department shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent or legally appointed guardian of a child, who at the time of notification is receiving early childhood services under chapter 50-11.1, of the name of the subject and provide a summary of the facts and the results of an assessment conducted under this chapter if the report made under this chapter involves the owner, operator, holder of a self-declaration, or in-home provider; or involves an adult or minor staff member, or adult or minor household member of the early childhood program, the holder of a self-declaration or a household member of the holder of a self-declaration, or the in-home provider or a household member of the in-home provider, who is providing care to the child.

Approved April 8, 2019

Filed April 9, 2019

¹⁹⁷ Section 50-25.1-11 was also amended by section 8 of House Bill No. 1108, chapter 416.

CHAPTER 408

HOUSE BILL NO. 1115

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-10.2 and two new sections to chapter 50-24.1 of the North Dakota Century Code, relating to furnishing financial information to a facility, definitions for medical assistance for needy persons, and medical assistance claims processing; to amend and reenact subsection 6 of section 50-06-01.9 and sections 50-24.1-01.1, 50-24.1-01.3, 50-24.1-02, 50-24.1-02.1, 50-24.1-02.2, 50-24.1-02.3, 50-24.1-02.5, 50-24.1-02.6, 50-24.1-02.7, 50-24.1-02.8, 50-24.1-02.10, 50-24.1-03.1, 50-24.1-03.2, 50-24.1-03.3, 50-24.1-04, 50-24.1-07, 50-24.1-12, 50-24.1-14, 50-24.1-16, 50-24.1-17, 50-24.1-18, 50-24.1-18.1, 50-24.1-20, 50-24.1-24, 50-24.1-26, 50-24.1-28, 50-24.1-29, 50-24.1-30, 50-24.1-31, 50-24.1-33, 50-24.1-34, 50-24.1-35, 50-24.1-36, and 50-24.1-39 of the North Dakota Century Code, relating to criminal history record checks on Medicaid services applicants, providers, and staff members and medical assistance for needy persons; to repeal sections 50-24.1-01.2, 50-24.1-10, 50-24.1-11, 50-24.1-13, 50-24.1-19, 50-24.1-22, 50-24.1-25, and 50-24.1-27 of the North Dakota Century Code, relating to medical assistance for needy persons; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁸ **SECTION 1. AMENDMENT.** Subsection 6 of section 50-06-01.9 of the North Dakota Century Code is amended and reenacted as follows:

6. Medicaid services applicant providers, Medicaid services providers, ~~staff members of the applicant provider or provider,~~ or an individual with a five percent or more direct or indirect ownership interest in the applicant provider or provider under chapter 50-24.1.

SECTION 2. A new section to chapter 50-10.2 of the North Dakota Century Code is created and enacted as follows:

Furnishing financial information.

A facility may request that an applicant for admission, a resident of the facility, or the applicant's or resident's legal representative furnish financial information regarding income and assets, including information regarding any transfers or assignments of income or assets. A facility may deny admission to an applicant for admission who is unable to verify a viable payment source.

SECTION 3. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Definitions.

¹⁹⁸ Section 50-06-01.9 was also amended by section 80 of Senate Bill No. 2124, chapter 391.

As used in this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
2. "Medical assistance" means benefits paid under chapter 50-24.1 and title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].
3. "Third party" means an individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under this chapter.

SECTION 4. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Medicaid and Medicare eligible individuals.

The department may not require prior authorization, additional documentation not required by Medicare, or additional prescription requirements of durable medical equipment and supplies in order to process a claim for Medicaid-eligible individuals who are also eligible for Medicare if an item has been paid by Medicare, unless the item is not covered by Medicaid.

SECTION 5. AMENDMENT. Section 50-24.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-01.1. Department to submit plans and seek waivers.

The department of human services may submit state plans in forms that are consistent with and which meet requirements for such plans which are or may be imposed under the Medicare Catastrophic Coverage Act of 1988 [Pub. L. 100-360; 102 Stat. 729; 42 U.S.C. 1396a et seq., as amended]. The department ~~and~~ may take such actions as are reasonably necessary to conform the administration of administer programs under its supervision and direction to the requirements of the Medicare Catastrophic Coverage Act of 1988 and the state plans submitted thereunder, including the issuance of policy manuals, forms, and program directives. The department may publish dashboards that demonstrate program utilization and provider care trends. Within the limits of legislative appropriation, the department may seek appropriate waivers of the requirements of the federal statutes or regulations as authorized by federal law.

SECTION 6. AMENDMENT. Section 50-24.1-01.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-01.3. Department to comply with federal requirements - Interagency cooperation - Civil money penalty fund.

1. The department of human services shall take any action necessary to comply with the requirements of section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], including establishing a process to enforce compliance by nursing facilities with requirements for participation in the medical assistance program that conforms to any federal regulations implementing that section.
2. The state department of health and the department of human services shall cooperate to achieve prompt and effective implementation of subsection 1.

3. The state treasurer shall establish a fund for the receipt of any civil money penalties imposed under subsection 1. Any civil money penalty paid to the department of human services under subsection 1 must be deposited in that fund and, subject to the limits of legislative appropriation, may be expended for the sole purpose of the protection of the health or property of residents of nursing facilities that the state or allowed by the federal government finds deficient.
4. This section may not be construed to create any right or authorize any activity not provided for in section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)] or its implementing federal regulations.
5. Before the establishment and assessment of civil money penalties permitted by section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], the department of human services is encouraged to submit a plan of alternative remedies in accordance with section 1919(h)(2)(B)(ii) of that Act.

SECTION 7. AMENDMENT. Section 50-24.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02. Eligibility.

Within the limits of legislative appropriations, medical assistance may be paid for any person who either has income and resources insufficient to meet the costs of necessary medical care and services or is eligible for or receiving financial assistance under chapter 50-09 or title XVI of the Social Security Act, as amended, and:

1. Has not at any time before or after making application for medical assistance made an assignment or transfer of property for the purpose of rendering that person eligible for assistance under this chapter. For the purposes of making any determination or redetermination of eligibility, the phrase "assignment or transfer" includes actions or failures to act which effect a renunciation or disclaimer of any interest which the applicant or recipient might otherwise assert or have asserted, or which serve to reduce the amounts which an applicant or recipient might otherwise claim from a decedent's estate, a trust or similar device, or a person obligated by law to furnish support to the applicant or recipient.
2. Has applied or agrees to apply all proceeds received or receivable by that person or that person's eligible spouse from ~~automobile accident medical benefits coverage and private health care~~third-party medical coverage, including health care coverage, accident insurance, and automobile insurance, to the costs of medical care for that person and that person's eligible spouse and children. The department of human services may require from any applicant or recipient of medical assistance the assignment of any rights accruing under ~~automobile medical benefits coverage or private health care~~third-party medical coverage. Any rights or amounts so assigned must be applied against the cost of medical care paid on behalf of the recipient under this chapter. The assignment is not effective as to any carrier before the receipt of notice of assignment by such carrier.
3. Is eligible under rules and regulations established by the department of human services.

SECTION 8. AMENDMENT. Section 50-24.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.1. Assignment of claim.

1. Each applicant or recipient of benefits under this chapter must be deemed to have assigned, to the department of ~~human services~~, any right of recovery the applicant or recipient may have for medical costs incurred under this chapter not exceeding the amount of funds expended by the department for the care and treatment of the applicant or recipient. The applicant or recipient, or other person empowered by law to act in the applicant's or recipient's behalf, shall execute and deliver an assignment of claim, assignment of rights, or other authorizations as necessary to secure fully the right of recovery of the department. The assignment:
 - a. Is effective as to both current and accrued medical support recovery obligations.
 - b. Takes effect upon a determination that an applicant is eligible for assistance under this chapter.
2. The department of ~~human services~~ may compromise claims arising out of assignments made under this section on such terms as it may deem just and appropriate. The department of ~~human services~~ may not be compelled to compromise any claim.

SECTION 9. AMENDMENT. Section 50-24.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.2. Community spouse resource allowance.

In determining eligibility for medical assistance applicants and recipients, the department of ~~human services~~ shall establish a community spouse resource allowance equal to the maximum community spouse resource allowance as provided by 42 U.S.C. 1396r-5(f)(2). This section applies to a community spouse of an institutionalized spouse. For purposes of this section, "institutionalized spouse" includes an individual who is described in 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

¹⁹⁹ **SECTION 10. AMENDMENT.** Section 50-24.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.3. When designated pre-need funeral service contracts, prepayments, or deposits not to be considered in eligibility determination.

In determining eligibility for medical assistance, the department of ~~human services~~ may not consider as an available resource any pre-need funeral service contracts, prepayments, or deposits to a fund which total six thousand dollars or less designated by the applicant or recipient as set-aside to pay for the applicant's or recipient's funeral. An applicant or recipient designates a prepayment or deposit for that applicant's or recipient's burial by providing funds that are to be used for the funeral or burial expenses of the applicant or recipient. If an applicant's or recipient's burial is funded by an insurance policy, the amount considered set-aside for burial is the lesser of the cost basis or the face value of the insurance policy. In addition, the applicant or recipient may designate all or a portion of the three thousand dollar asset limitation for funeral pre-need contracts, prepayments, or deposits. Interest or earnings retained in a funeral fund also may not be considered as an available

¹⁹⁹ Section 50-24.1-02.3 was also amended by section 2 of House Bill No. 1318, chapter 409.

resource. A pre-need funeral service contract, prepayment, or deposit designated under this section is not a multiple-party account for purposes of chapter 30.1-31. Any amount in a pre-need funeral service contract, prepayment, or deposit designated under this section which is not used for funeral or burial expenses must be returned to the estate of the medical assistance recipient and is subject to recovery by the department from the medical assistance recipient's estate. No claim for payment of funeral expenses may be made against the estate of a deceased medical assistance recipient except to the extent that funds maintained in accordance with this section total less than six thousand dollars.

SECTION 11. AMENDMENT. Section 50-24.1-02.5 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.5. Effect of purchase of insurance on disqualifying transfer.

1. An individual who secures and maintains insurance that covers the cost of substantially all necessary medical care, including necessary care in a nursing home and necessary care for an individual who qualifies for admission to a nursing home but receives care elsewhere, for at least thirty-six months after the date an asset is disposed of, may demonstrate that the asset was disposed of exclusively for a purpose other than to qualify for medical assistance by providing proof of that insurance.
2. If purchased after July 31, 2003, the insurance coverage under this section must include home health care coverage, assisted living coverage, basic care coverage, and skilled nursing facility coverage. The coverage required under this subsection must include a daily benefit equal to at least one and fifty-seven hundredths times the average daily cost of nursing care for the year in which the policy was issued and an aggregate benefit equal to at least one thousand ninety-five times that daily benefit.
3. This section applies only to policies purchased before the effective date of an approved amendment to the state plan for medical assistance that provides for a qualified state long-term care insurance partnership under section 1917(b) of the Social Security Act [42 U.S.C. 1396p].
4. ~~The department of human services shall certify to the legislative council the effective date described in subsection 3.~~

SECTION 12. AMENDMENT. Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are:
 - a. ~~Medically~~ medically needy persons who have countable income that does not exceed an amount determined under subsection 2; ~~and~~
 - b. ~~Minors who have countable income that does not exceed an amount determined under subsection 3.~~
2. ~~The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law,~~

~~that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.~~

- ~~3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law:~~
4. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.
4. The department may require, as a condition of eligibility, individuals eligible for Medicare part A, B, or D to apply for such coverage.

SECTION 13. AMENDMENT. Section 50-24.1-02.7 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.7. Workers with disabilities coverage.

The department of human services shall establish and implement a buyin program to provide medical assistance to an individual who, except for substantial gainful activity, meets the definition of disabled under the supplemental security income program under title XVI of the federal Social Security Act, who is at least sixteen but less than sixty-five years of age, and who is gainfully employed. The program must:

1. Be made available to an individual with a disability who is a member of a family the household with a net income of which is less than two hundred twenty-five percent of the most recently revised official poverty line published by the federal office of management and budget for the family applicable to the household size;
2. Allow up to an additional ten thousand dollars in assets;
3. Require the payment of a premium that is based upon a sliding scale which may not be less than two and one-half percent nor more than seven and one-half percent of the individual's gross countable income;
4. Include a one-time program enrollment fee of one hundred dollars; and
5. Provide that the failure of an enrolled individual to pay premiums for three months may result in the termination of enrollment in the program.

SECTION 14. AMENDMENT. Section 50-24.1-02.8 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.8. Transfers involving annuities.

1. For purposes of this section, "annuity" means a policy, certificate, contract, or other arrangement between two or more parties under which one party pays money or other valuable consideration to the other party in return for the right to receive payments in the future.
2. ~~An annuity purchased before August 1, 2005, is an available asset and its purchase is an uncompensated assignment or transfer of assets under section~~

~~50-24.1-02, resulting in a penalty under the applicable rules established by the department of human services unless the following criteria are met:~~

- ~~a. The annuity is a single premium immediate annuity or an annuity in which a settlement option has been selected, is irrevocable, and cannot be assigned to another person.~~
 - ~~b. The annuity is purchased from an insurance company or other commercial company that sells annuities as part of the normal course of business.~~
 - ~~c. The annuity provides substantially equal monthly payments of principal and interest and does not have a balloon or deferred payment of principal or interest. Payments will be considered substantially equal if the total annual payment in any year varies by five percent or less from the payment in the previous year.~~
 - ~~d. The annuity will return the full principal and interest within the purchaser's life expectancy as determined by the life expectancy tables published by the centers for Medicare and Medicaid services.~~
 - ~~e. The monthly payments from the annuity, unless specifically ordered otherwise by a court of competent jurisdiction, do not exceed the maximum monthly income amount allowed for a community spouse as determined under 42 U.S.C. 1396r-5.~~
3. Unless done in compliance with subsection 4, a provision in an annuity that purports to preclude assignment or transfer of any interest in the annuity is void as against public policy upon application of the purchaser, the purchaser's spouse, the annuitant, or the annuitant's spouse for benefits under this chapter. This subsection applies only to an annuity for which a payment option has been irrevocably selected after July 31, 2005.
4. An annuity, purchased after July 31, 2005, and before February 8, 2006, is not an available asset and the expenditure of funds to purchase such an annuity, instrument, or other arrangement may not be considered to be a disqualifying transfer of an asset for purposes of this chapter if:
- a. The annuity is purchased from an insurance company or other commercial company that sells annuities as part of the normal course of business;
 - b. The annuity is irrevocable and neither the annuity nor payments due under the annuity may be assigned or transferred;
 - c. The monthly payments from all annuities owned by the purchaser that comply with this subsection may not exceed the minimum monthly maintenance needs allowance for a community spouse as determined by the department pursuant to 42 U.S.C. 1396r-5 and, when combined with the purchaser's other monthly income, at the time of application of the purchaser, the purchaser's spouse, the annuitant, or the annuitant's spouse, for benefits under this chapter, do not exceed one hundred fifty percent of the minimum monthly maintenance needs allowance allowed for a community spouse as determined by the department pursuant to 42 U.S.C. 1396r-5;

- d. ~~The annuity provides substantially equal monthly payments of principal and interest and does not have a balloon or deferred payment of principal or interest. Payments will be considered substantially equal if the total annual payment in any year varies by five percent or less from the payment in the previous year;~~
 - e. ~~The annuity will return the full principal and has a guaranteed period that is equal to at least eighty five percent of the purchaser's life expectancy as determined by the life expectancy tables used by the department of human services; and~~
 - f. ~~The annuity does not include any provision that limits the effect of subsection 5.~~
5. ~~Before benefits under this chapter may be provided to an otherwise eligible applicant who is fifty five years of age or older, the department of human services, or the successor of that department, must be irrevocably named on each annuity owned by that applicant, or by the spouse of that applicant, that complies with subsection 4, as primary beneficiary for payment of amounts due following the death of the applicant and the applicant's spouse, if any, not to exceed the amount of benefits paid under this chapter on behalf of that applicant after age fifty five, plus interest on that amount at the legal rate from six months after the applicant's death. If the department receives notice within ninety days of the death of the applicant or the applicant's spouse that reliably demonstrates that the applicant is survived by a minor child who resided and was supported financially by the deceased or by a permanently and totally disabled child, the department shall remit any payments made to the department under this section to those survivors in equal shares. When the obligations to the minor child or children who resided and were supported financially by the deceased or the permanently and totally disabled child or children and the department are fulfilled, the department shall remit any future payments made to the department under this section to the contingent beneficiaries selected by the annuitant regarding each annuity owned by the applicant or by the spouse of the applicant.~~
6. The purchase of an annuity on or after February 8, 2006, or the selection or alteration on or after February 8, 2006, of a payment option for an annuity purchased at any time, is a disqualifying transfer of an asset for purposes of this chapter unless:
- a. The state is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant or the state is named in the second position after the community spouse or minor or disabled child and is named in the first position if the community spouse or a representative of the minor or disabled child disposes of any remainder for less than fair market value;
 - b. The annuity is purchased from an insurance company or other commercial company that sells annuities as part of the normal course of business;
 - c. The annuity is irrevocable and neither the annuity nor payments due under the annuity may be assigned or transferred;
 - d. The annuity provides substantially equal monthly payments of principal and interest and does not have a balloon or deferred payment of principal

or interest. Payments will be considered substantially equal if the total annual payment in any year varies by five percent or less from the payment in the previous year; and

- e. The annuity will return the full principal and interest within the purchaser's life expectancy as determined in accordance with actuarial publications of the office of the chief actuary of the social security administration.
7. ~~An annuity purchased on or after February 8, 2006, or a payment option selected or altered on or after February 8, 2006, with respect to an annuity purchased at any time is an asset for purposes of this chapter unless:~~
- a. ~~The annuity meets all of the requirements of subsection 6;~~
 - b. ~~The monthly payments from all annuities owned by the purchaser that comply with this subsection do not exceed the minimum monthly maintenance needs allowance for a community spouse of the maximum amount allowed pursuant to 42 U.S.C. 1396r-5 and, at the time of application for benefits under this chapter, the total combined income from all sources of the purchaser and the purchaser's spouse, or the annuitant and the annuitant's spouse, does not exceed one hundred fifty percent of the minimum monthly maintenance needs allowance allowed for a community spouse of the maximum amount allowed pursuant to 42 U.S.C. 1396r-5; and~~
 - e. ~~The annuity will return the full principal and has a guaranteed period that is equal to at least eighty-five percent of the purchaser's life expectancy as determined by the life expectancy tables used by the department of human services.~~

~~8.3.~~ Except for the provision in subdivision a of subsection 6~~2~~, this section does not apply to:

- a. An annuity described in subsection b or q of section 408 of the Internal Revenue Code of 1986; or
- b. An annuity purchased with proceeds from an:
 - (1) An account or trust described in subsection a, c, or p of section 408 of the Internal Revenue Code of 1986;
- e. (2) A simplified employee pension within the meaning of subsection k of section 408 of the Internal Revenue Code of 1986; or
- d. (3) A Roth IRA described in section 408A of the Internal Revenue Code of 1986.

SECTION 15. AMENDMENT. Section 50-24.1-02.10 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.10. Real estate taxes on rental property as deduction from rental income.

For purposes of determining the treatment of income and the application of income to the cost of care for medical assistance eligibility for an individual screened as requiring nursing care services, and who is receiving home and community-based

~~services~~ or nursing care services, the department of ~~human services~~ shall allow as a deduction from countable gross rental income the real estate taxes for rental property if the individual is responsible for paying the real estate taxes for that property.

²⁰⁰ **SECTION 16. AMENDMENT.** Section 50-24.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-03.1. Duties of county agency.

In the administration of the medical assistance program, a county agency shall investigate and record the circumstances of each applicant or recipient of assistance, in order to ascertain the facts supporting the application, or the granting of assistance, and obtain such other information as may be required by the rules and regulations of the department of ~~human services~~.

²⁰¹ **SECTION 17. AMENDMENT.** Section 50-24.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-03.2. Investigations - Power of county agencies, department, and employees.

1. In the investigation of applications under the provisions of this chapter, the county agencies, the department of ~~human services~~, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:
 - a. Conduct examinations;
 - b. Require the attendance of witnesses and the production of books, records, and papers; and
 - c. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.
2. The department of ~~human services~~ may request from other state, county, and local agencies information deemed necessary to carry out the medical support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the department of ~~human services~~ in locating absent spouses or parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the department with available information relative to the location, income, social security number, and property holdings of the absent spouse or parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the department of ~~human services~~ who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the medical support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

²⁰⁰ Section 50-24.1-03.1 was also amended by section 113 of Senate Bill No. 2124, chapter 391.

²⁰¹ Section 50-24.1-03.2 was also amended by section 114 of Senate Bill No. 2124, chapter 391.

3. The officers and employees designated by the county agencies or the department of human services may administer oaths and affirmations.

SECTION 18. AMENDMENT. Section 50-24.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-03.3. Criminal background investigation - Fingerprinting required.

1. When the department determines a criminal history record check is appropriate, a provider applicant, a provider, ~~staff members of the applicant provider or provider,~~ or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law.
2. The applicant provider or provider shall assure the information obtained under subsection 1 is provided to the department within thirty days of the notice date.
3. The department shall submit the information and fingerprints to the bureau of criminal investigation to determine if there is any criminal history record information regarding the applicant provider, provider, ~~staff members of the applicant provider or provider,~~ or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider in accordance with section 12-60-24.
4. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of response, provide the response of the federal bureau of investigation to the department. The bureau also shall provide any criminal history record information that lawfully may be made available under chapter 12-60 to the department.
5. The results of the investigations must be forwarded to the department.
6. Upon request by the applicant provider, provider, ~~staff members of the applicant provider or provider,~~ or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider, a law enforcement agency shall take fingerprints of individuals described in this section if the request is made for purposes of this section.
7. The applicant provider, provider, ~~staff members of the applicant provider or provider,~~ or an individual with a five percent or more direct or indirect ownership interest in the provider applicant or provider shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check.
8. The department may charge a fee not to exceed the actual cost for the purpose of processing the background investigations.
9. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of the fingerprinting.
10. The department may use the background information findings to determine approval of Medicaid services provider application or termination of enrollment

as a Medicaid services provider. An individual denied or terminated as a Medicaid service provider as a result of the background investigation may not be qualified to enroll as a provider, have five percent or greater ownership or control interest in a Medicaid services provider, or submit claims for reimbursement through the department's Medicaid management information system.

SECTION 19. AMENDMENT. Section 50-24.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-04. Authority of department.

The department of human services is authorized to promulgate such ~~may~~ adopt rules and regulations as are necessary to qualify for any federal funds available under this chapter.

SECTION 20. AMENDMENT. Section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-07. Recovery from estate of medical assistance recipient.

1. On the death of any recipient of medical assistance who was a resident of a nursing facility, intermediate care facility for individuals with intellectual disabilities, or other medical institution and with respect to whom the department of human services determined that resident reasonably was not expected to be discharged from the medical institution and to return home, or who was fifty-five years of age or older when the recipient received the assistance, and on the death of the spouse of the deceased recipient, the total amount of medical assistance paid on behalf of the recipient following the institutionalization of the recipient who cannot reasonably be expected to be discharged from the medical institution, or following the recipient's fifty-fifth birthday, as the case may be, must be allowed as a preferred claim against the decedent's estate after payment, in the following order, of:
 - a. Recipient liability expense applicable to the month of death for nursing home or basic care services;
 - b. Funeral expenses not in excess of three thousand dollars;
 - c. Expenses of the last illness, other than those incurred by medical assistance;
 - d. Expenses of administering the estate, including attorney's fees approved by the court;
 - e. Claims made under chapter 50-01;
 - f. Claims made under chapter 50-24.5;
 - g. Claims made under chapter 50-06.3 and on behalf of the state hospital; and
 - h. Claims made under subsection 4.
2. a. A claim may not be required to be paid nor may interest begin to accrue during the lifetime of the decedent's surviving spouse, if any, nor while

there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled, but no timely filed claim may be disallowed because of the provisions of this section.

- b. The department may not file a claim against an estate to recover payments made on behalf of a recipient who was eligible for Medicaid under section 50-24.1-37 and who received coverage through a private carrier.
3. Every personal representative, upon the granting of letters of administration or testamentary shall forward to the department of ~~human services~~ a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective district court, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. Unless a properly filed claim of the department of ~~human services~~ is paid in full, the personal representative shall provide to the department a statement of assets and disbursements in the estate.
4. A claim of the department of ~~human services~~ made against the decedent's estate of a recipient of medical assistance who was a full-benefit dual-eligible recipient, or against the decedent's estate of the spouse of a deceased recipient of medical assistance who was a full-benefit dual-eligible recipient, must include a claim for an amount equal to the amount required to be paid each month under 42 U.S.C. 1396u-5(c)(1)(A), or a substantially similar federal law, which reasonably may be attributable to benefits paid on behalf of the deceased recipient in a month during which the deceased recipient received medical assistance under this chapter and was eligible for Medicare.
5. All assets in the decedent's estate of the spouse of a deceased medical assistance recipient are presumed to be assets in which that recipient had an interest at the time of the recipient's death.
6. To the extent a claim for repayment of medical assistance arises for services provided in months during which the department of ~~human services~~ has in effect an approved state plan amendment that provides for the disregard of assets in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary of an insurance policy under a qualified state long-term care insurance partnership, the department's claim need not be paid out of assets of the decedent's estate of a recipient of medical assistance, or assets of the decedent's estate of the spouse of such a recipient, of a value equal to an amount the estate demonstrates was paid for long-term care provided to the recipient of medical assistance during those months by that insurance policy.
7. For purposes of this section:
 - a. "Full-benefit dual-eligible" has the meaning provided in 42 U.S.C. 1396u-5; and
 - b. "Qualified state long-term care insurance partnership" has the meaning provided in 42 U.S.C. 1396p(b).

SECTION 21. AMENDMENT. Section 50-24.1-12 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-12. Medical assistance - Services provided by psychologists.

Within the limits of legislative appropriations, the department of human services shall provide medical assistance to eligible recipients for services provided by psychologists licensed under chapter 43-32.

SECTION 22. AMENDMENT. Section 50-24.1-14 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-14. Responsibility for expenditures.

~~Expenditures~~Notwithstanding section 50-24.1-34, expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.

SECTION 23. AMENDMENT. Section 50-24.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-16. Reimbursement of ambulance services.

1. Medical assistance coverage must include reimbursement of ambulance services for responding to calls to assist covered individuals which do not result in transport. ~~The reimbursement must be at a rate negotiated by the department and the ambulance service.~~
2. For purposes of classifying ambulance services under this section:
 - a. An emergency response is one that at the time the ambulance is called the ambulance responds immediately. An immediate response is one in which the ambulance begins as quickly as possible to take the steps necessary to respond to the call.
 - b. An advanced life support assessment is an assessment performed by an advanced life support crew as part of an emergency response that was necessary because the patient's reported condition at the time of the dispatch was such that only an advanced life support crew was qualified to perform the assessment. An advanced life support assessment does not necessarily result in a determination that the patient requires an advanced life support level of service.

SECTION 24. AMENDMENT. Section 50-24.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-17. Medical assistance for breast or cervical cancer.

The department of ~~human services~~ may provide medical assistance for ~~women~~individuals screened and found to have breast or cervical cancer in accordance with the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000 [Pub. L. 106-354; 114 Stat. 1381; 42 U.S.C. 1396a et seq.]. The department shall establish an income eligibility limit that may not exceed two hundred percent of the most recently revised poverty line ~~for payments made under this section. For purposes of this section, poverty line means the official income poverty line as defined by the United States published by the federal office of management and budget and revised annually in accordance with 42 U.S.C. 9902(2); applicable to a family of the household size involved.~~

²⁰² **SECTION 25. AMENDMENT.** Section 50-24.1-18 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-18. Personal care option – Basic care facilities.

~~The department of human services may~~shall implement a personal care option benefit program. ~~Personal care option benefits may only be made available to qualifying individuals who reside in basic care facilities. As used in this section, "basic care facility" has the meaning provided in section 23-09.3-04 services.~~

SECTION 26. AMENDMENT. Section 50-24.1-18.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-18.1. Consumer-directed health maintenance services - Residing at home.

~~The department of human services shall provide a personal care services program for eligible medical assistance recipients. The department shall provide an attendant care program to permit health maintenance services authorized under this section to be provided by nonlicensed care providers. Health maintenance services means care that enables an individual to live at home, and which is based upon the determination of a physician which concludes that the individual is medically stable and is competent to direct the care provided by a nonlicensed care provider. Health maintenance services include assistance with the activities of daily living such as getting in and out of bed, wheelchair, or motor vehicle; assistance with routine bodily functions such as bathing and personal hygiene, dressing, and grooming; and feeding, including preparation and cleanup. Health maintenance services also include any other medical, nursing, or home health care services that will maintain the health and well-being of the individual and will allow the individual to remain in the community and which are services that an individual without a functional disability would customarily and personally perform without the assistance of a licensed health care provider, such as catheter irrigation, administration of medications, or wound care.~~

SECTION 27. AMENDMENT. Section 50-24.1-20 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-20. Home and community-based living - Choice of options.

~~Any aged or disabled individual who is eligible for home and community-based living must be allowed to choose, from among all service options available, the type of service that best meets that individual's needs. To the extent permitted by any applicable waiver, the individual's medical assistance funds must follow the individual for whichever service option the individual selects, not to exceed the cost of the service. The department of human services shall apply for the waivers and grants necessary to implement this section under existing or future federal legislation.~~

SECTION 28. AMENDMENT. Section 50-24.1-24 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-24. Provider appeals - Definitions.

1. For purposes of this section:

²⁰² Section 50-24.1-18 was also amended by section 6 of House Bill No. 1099, chapter 405.

- a. "Denial of payment" means that the department has denied payment for a medical assistance claim or reduced the level of service payment for a service provided to an individual who was an eligible medical assistance recipient at the time the service was provided or the recoupment or adjustment of a claim, or part of a claim, following an audit or review.
 - b. "Department" means the department of human services.
 - e. "Provider" means an individual, entity, or facility that furnishes medical or remedial services or supplies pursuant to a provider agreement with the department or a third-party billing agency of the provider.
2. A provider may request a review of denial of payment under this section by filing a written request for review with the department within thirty days of the date of the department's denial of the claim ~~apayment~~. ~~The written notice with the department which includes request for review must include the remittance advice or the notice of recoupment or adjustment and a statement of each disputed item and~~ with the reason or basis for the dispute. A provider may not request review under this section of the rate paid for a particular service or for a full or partial denial, recoupment, or adjustment of a claim due to required federal or state changes, payment system defects, or improper claims submission.
 3. Within thirty days after requesting a review, a provider shall provide to the department all documents, written statements, exhibits, and other written information that support the provider's request for review, together with a computation and the dollar amount that reflects the provider's claim as to the correct computation and dollar amount for each disputed item.
 4. The department shall assign to a provider's request for review someone other than any individual who was involved in the initial denial of the claim. A provider who has requested review may contact the department for an informal conference regarding the review anytime before the department has issued its final decision.
 5. The department shall make and issue ~~its~~ a final decision within seventy-five days of receipt of the notice for review, if the department has denied payment for a medical assistance claim or reduced the level of service payment for a service. The department shall make and issue a decision within seventy-five days, or as soon thereafter as possible, of receipt of the notice of request for review, if the department has recouped or adjusted a claim, or part of a claim, following an audit. The department's final decision must conform to the requirements of section 28-32-39. A provider may appeal the final decision of the department to the district court in the manner provided in section 28-32-42, and the district court shall review the department's final decision in the manner provided in section 28-32-46. The judgment of the district court in an appeal from a request for review may be reviewed in the supreme court on appeal by any party in the same manner as provided in section 28-32-49.
 6. Upon receipt of notice that the provider has appealed its final decision to the district court, the department shall make a record of all documents, written statements, exhibits, and other written information submitted by the provider or the department in connection with the request for review and the department's final decision on review, which constitutes the entire record. Within thirty days after an appeal has been taken to district court as provided

in this section, the department shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original and a certified copy of the entire record, and that record must be treated as the record on appeal for purposes of section 28-32-44.

SECTION 29. AMENDMENT. Section 50-24.1-26 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-26. Medicaid waiverwaivers - In-home services.

The department shall ~~apply for and administer~~ Medicaid ~~waiverwaivers~~ to provide in-home services to children with extraordinary medical needs and to children up to the age of fourteen diagnosed with an autism spectrum disorder who would otherwise require hospitalization or nursing facility~~meet institutional level of~~ care. The department may limit the waiver to fifteen participants and may prioritize applicants for the waiver for children with extraordinary medical needs by degree of need.

SECTION 30. AMENDMENT. Section 50-24.1-28 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-28. Medical assistance and Medicare prescription drug management program.

~~The department of human services, with respect to the state medical assistance program, shall develop a plan for the implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1]. The department may purchase the services of an outside consultant to assist in the development of the plan. The requirements of chapter 54-44.4 do not apply to the purchase of the consultant services. The department may not pay for:~~

- ~~1. A prescription drug that is within a class of drugs covered under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1] and which is prescribed to a medical assistance recipient who is also a Medicare beneficiary.~~
- ~~2. A prescription drug that is not covered and for which no drug in its class is covered under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1] and which is prescribed for an individual who is a medical assistance recipient and a Medicare beneficiary unless federal medical assistance matching funds are available at no less than the federal medical assistance percentage and the department determines that the drug is medically necessary for the individual.~~
- ~~3. A prescription drug for which federal medical assistance matching funds are not available except that until February 15, 2006, the department may pay for the drug in an emergency to ensure that a medical assistance recipient who is also a Medicare beneficiary may continue to receive appropriate medications after implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [Pub. L. 108-173; 117 Stat. 2066; 42 U.S.C. 1396kk-1].~~

SECTION 31. AMENDMENT. Section 50-24.1-29 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-29. Insurers to provide certain information to the department of human services.

1. For purposes of this section:
 - a. "Department" means the department of human services or its agent.
 - b. "Health insurer" includes self-insured plans, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)], service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that legally are responsible by statute, contract, or agreement for payment of a claim for a health care item or service.
 - c. ~~"Medical assistance" means benefits paid under chapter 50-24.1 and title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].~~
2. As a condition of doing business in this state, health insurers shall provide to the department upon its request and in a manner prescribed by the department information about individuals who are eligible for medical assistance so the department may determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage provided by the health insurer, including the name, address, and identifying number of the plan. Notwithstanding any other provision of law, every health insurer, not more frequently than twelve times in a year, shall provide to the department upon its request information, including automated data matches conducted under the direction of the department, as necessary, to:
 - a. Identify individuals covered under the insurer's health benefit plans who are also recipients of medical assistance;
 - b. Determine the period during which the individual or the individual's spouse or the individual's dependents may be or may have been covered by the health benefit plan; and
 - c. Determine the nature of the coverage.

The insurer must provide the information required in this subsection to the department at no cost if the information is in a readily available structure or format. If the department requests the information in a structure or format that is not readily available, the insurer may charge a reasonable fee for providing the information, not to exceed the actual cost of providing the information.

3. To facilitate the department in obtaining the information required by this section, a health insurer shall:
 - a. Cooperate with the department to determine whether a medical assistance recipient may be covered under the insurer's health benefit plan and is eligible to receive benefits under the health benefit plan for services provided under the medical assistance program.
 - b. Respond to the request for information within ninety days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the insurer's health benefit plan.

- c. Accept the department's right of recovery and the assignment to the department of any right of an individual or other entity to payment from a liable third party for an item or service for which payment has been made under the state medical assistance plan.
 - d. Respond to any inquiry by the department regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the provision of the health care item or service.
 - e. Agree not to deny a claim submitted by the department solely on the basis of the date of submission of the claim, the type of format of the claim form, or a failure to present proper documentation at the point of sale that is the basis of the claim if:
 - (1) The claim is submitted by the department within the three-year period beginning on the date on which the item or service was furnished; and
 - (2) Any action by the department to enforce its rights with respect to such claim is commenced within six years of the department's submission of the claim.
4. A health insurer is prohibited, in enrolling an individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance.
 5. The department may not use or disclose any information provided by the insurer other than as permitted or required by law. The insurer may not be held liable for the release of insurance information to the department or a department agent if the release is authorized under this section.

SECTION 32. AMENDMENT. Section 50-24.1-30 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-30. Third-party liability recovery.

1. ~~For purposes of this section:~~
 - a. ~~"Department" means the department of human services.~~
 - b. ~~"Third party" means an individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under this chapter.~~
2. The department shall seek recovery of reimbursement from a third party up to the full amount of medical assistance paid.
- ~~3-2.~~ A medical assistance recipient shall inform the department of any rights the recipient has to third-party benefits and shall inform the department of the name and address of any individual, entity, or program that is or may be liable to provide third-party benefits.
- ~~4-3.~~ A release or satisfaction of a cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement is not valid or effectual as against a claim created under this chapter unless the department joins in the release or satisfaction or executes a release of its claim.

- 5-4. The department shall recover the full amount of all medical assistance provided on behalf of a recipient to the full extent of third-party benefits received by the recipient or the department for medical expenses. The department shall recover the third-party benefits directly from any third party or from the recipient or legal representative, if the recipient or legal representative has received third-party benefits, up to the amount of medical assistance provided to the recipient.
- 6-5. An applicant for or recipient of medical assistance shall cooperate in the recovery of third-party benefits.
- 7-6. To enforce its rights to third-party benefits, the department may institute, intervene in, or join any legal or administrative proceeding in its own name.
- a. If either the recipient or the department brings an action against a third party, the recipient or the department must provide to the other within thirty days after commencing the action written notice by personal delivery or registered mail of the action, the name of the court in which the case is brought, the case number of such action, and a copy of the pleadings. If either the department or the recipient brings an action, the other may become a party to or may consolidate an action brought independently with the other.
 - b. A judgment, award, or settlement of a claim in an action by a recipient to recover damages for injuries or other third-party benefits in which the department has an interest may not be satisfied or released without first giving the department notice and a reasonable opportunity to file and satisfy its claim or proceed with any action as otherwise permitted by law.
- 8-7. Any transfer or encumbrance of any right, title, or interest to which the department has a right with the intent, likelihood, or practical effect of defeating, hindering, or reducing recovery by the department for reimbursement of medical assistance provided to a recipient is void and of no effect against the claim of the department.
- 9-8. A recipient who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the department within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total medical assistance provided or to place a sum equal to the full amount of the total medical assistance provided in a trust account pending judicial or administrative determination of the department's right to the third-party benefits.
- 10-9. Notwithstanding any provision in this section to the contrary, the department is not required to seek reimbursement from, or may reduce or compromise a claim against, a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:
- a. Actual and legal issues of liability as may exist between the recipient and the liable party;
 - b. Total funds available for settlement; and

- c. An estimate of the cost to the department of pursuing its claim.

²⁰³ **SECTION 33. AMENDMENT.** Section 50-24.1-31 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-31. Optional medical assistance for families of children with disabilities.

The department of ~~human services~~ shall establish and implement a buyin program under the federal Family Opportunity Act enacted as part of the Deficit Reduction Act of 2005 [Pub. L. 109-171; 120 Stat. 4; 42 U.S.C. 1396] to provide medical assistance and other health coverage options to families of children with disabilities and whose net income does not exceed two hundred percent of the federal poverty line published by the federal office of management and budget applicable to the household size.

SECTION 34. AMENDMENT. Section 50-24.1-33 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-33. Brain injury - Home and community-based services - Outreach activities - Quality control.

1. As part of the personal care services program for eligible medical assistance recipients and as part of the department's services for eligible disabled and elderly individuals, the department shall provide home and community-based services to individuals who have ~~moderate or severe impairments as a result of a brain injury and meet the functional eligibility criteria for receipt of services.~~ The department shall give priority under this section to individuals whose impairments are less severe or similar to those of individuals who are eligible for Medicaid waivers.
2. ~~The department shall conduct outreach and public awareness activities regarding the availability of home and community-based services to individuals who have moderate or severe impairments as a result of a brain injury.~~
3. The department shall conduct quality control activities and make training available to case managers and other persons providing services to individuals under this section.

SECTION 35. AMENDMENT. Section 50-24.1-34 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-34. Processing of claims submitted on behalf of inmates.

The department of human services shall process claims submitted by enrolled medical providers on behalf of inmates at county jails. Each county shall pay the department for the paid amount for the claims processed and also a processing fee for each claim submission. The department ~~shall~~may establish a processing fee that may not exceed ~~thirty~~fifty dollars and shall update the fee annually on July first. The processing fee must be based on the ~~annual~~actual costs to the department of the claims processing operations divided by the annual volume of claims submitted. The department shall invoice each county for payment of the processing fee. Beginning July 1, 2011, the department of human services shall increase the claims processing

²⁰³ Section 50-24.1-31 was also amended by section 6 of Senate Bill No. 2012, chapter 37.

~~fee to recover the cost of the Medicaid claims system changes. The department shall deposit the portion of the fee associated with recovering the costs of the Medicaid claims system changes in the general fund.~~

SECTION 36. AMENDMENT. Section 50-24.1-35 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-35. Department to expand Medicaid coverage. (Contingent effective date—[See note](#))

~~After implementation of the Medicaid management information system, the~~The department of human services shall ~~expand~~ensure Medicaid coverage to ~~include~~includes Medicaid-covered services provided to an inmate of the ~~state penitentiary~~department of corrections and rehabilitation or a county jail who would be eligible for Medicaid if the inmate were not incarcerated and who is admitted to an inpatient hospital setting.

SECTION 37. AMENDMENT. Section 50-24.1-36 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-36. Civil sanction - Costs recoverable - Interest - Appeals.

1. For purposes of this section:
 - a. "Affiliate" means a person having an overt or covert relationship each with another person in a manner that one person directly or indirectly controls or has the power to control another.
 - b. "Department" means ~~the department of human services.~~
 - e. "Provider" means any individual or entity furnishing Medicaid services under a provider agreement with the ~~department of human services.~~
2. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to twenty-five percent of the amount the department was induced to pay as a result of each act of fraud or abuse. This sanction is in addition to the applicable rules established by the department.
3. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to five thousand dollars on each act of fraud or abuse which did not induce the department to make an erroneous payment. This sanction is in addition to the applicable rules established by the department.
4. A provider, an affiliate of a provider, or any combination of provider and affiliates, that is assessed a civil sanction by the department also shall reimburse the department investigation fees, costs, and expenses for any investigation and action brought under this section.
5. Unless otherwise provided in a judgment entered against a provider or against an affiliate of the provider, overpayments and sanctions accrue interest at the legal rate beginning thirty days after the department provides written notice to the provider or the affiliate of the provider.

6. a. A provider or an affiliate of a provider who is assessed a sanction may request a review of the sanction by filing within thirty days of the date of the department's notice of sanction a written notice with the department which includes a statement of each disputed item and the reason or basis for the dispute.
 - b. A provider or an affiliate of a provider may not request review under this section if the sanction imposed is termination or suspension and the notice of sanction states that the basis for the sanction is either:
 - (1) The provider's or affiliate's failure to meet standards of licensure, certification, or registration where those standards are imposed by state or federal law as a condition to participation in the Medicaid program; or
 - (2) The provider or affiliate has been similarly sanctioned by the Medicare program or by another state's Medicaid program.
 - c. Within thirty days after requesting a review, a provider or affiliate shall provide to the department all documents, written statements, exhibits, and other written information that supports the request for review.
 - d. The department shall assign a provider's or affiliate's request for review to someone other than an individual who was involved in imposing the sanction. A provider or affiliate who has requested review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
 - e. The department shall make and issue its final decision within seventy-five days of receipt of the notice of request for review. The department's final decision must conform to the requirements of section 28-32-39. A provider or affiliate may appeal the final decision of the department to the district court in the manner provided in section 28-32-42, and the district court shall review the department's final decision in the manner provided in section 28-32-46. The judgment of the district court in an appeal from a request for review may be reviewed in the supreme court on appeal by any party in the same manner as provided in section 28-32-49.
 - f. Upon receipt of notice that the provider or affiliate has appealed its final decision to the district court, the department shall make a record of all documents, written statements, exhibits, and other written information submitted by the provider, affiliate, or the department in connection with the request for review and the department's final decision on review, which constitutes the entire record. Within thirty days after an appeal has been taken to district court as provided in this section, the department shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original and a certified copy of the entire record, and that record must be treated as the record on appeal for purposes of section 28-32-44.
7. Determinations of medical necessity may not lead to imposition of remedies, duties, prohibitions, and sanctions under this section.

8. The remedies, duties, prohibitions, and sanctions of this section are not exclusive and are in addition to all other causes of action, remedies, penalties, and sanctions otherwise provided by law or by provider agreement.
9. The state's share of all civil sanctions, investigation fees, costs, expenses, and interest received by the department under this section must be deposited into the general fund.

SECTION 38. AMENDMENT. Section 50-24.1-39 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-39. Behavioral health services - Licensed marriage and family therapists.

Beginning January 1, 2016, the department of ~~human services~~ shall allow licensed marriage and family therapists to enroll and be eligible for payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department determines necessary.

SECTION 39. REPEAL. Sections 50-24.1-01.2, 50-24.1-10, 50-24.1-11, 50-24.1-13, 50-24.1-19, 50-24.1-22, 50-24.1-25, and 50-24.1-27 of the North Dakota Century Code are repealed.

SECTION 40. EFFECTIVE DATE. Section 4 of this Act becomes effective on January 1, 2020.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 409

HOUSE BILL NO. 1318

(Representatives Lefor, Blum, Holman, Johnston)
(Senators Hogan, Klein, Poolman)

AN ACT to amend and reenact sections 43-10.1-03.1 and 50-24.1-02.3 of the North Dakota Century Code, relating to Medicaid assets exempt for funeral expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-10.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage.

Whenever

1. If payments are made to a person upon pre-need funeral service contracts, one hundred percent of the funds collected under the contracts for the sale of professional service or personal property to be used in funeral services and fifty percent of the funds collected under the contracts for the sale of cemetery merchandise must be deposited in or transferred to a trust company in this state or to a federally insured bank, credit union, or savings and loan association in this state, within ten days. The deposit must be placed in a federal deposit insurance corporation or national credit union administration insured certificate of deposit or negotiable debt obligation of the United States government. Payments received from the sale of professional service or personal property to be used in funeral services or cemetery merchandise which cannot or would not be serviced by a licensed funeral establishment or cemetery association in the area wherein which the service or property was sold are specifically included, regardless of whether ~~or not~~ the sales might otherwise be considered pre-need funeral service contracts, within the payments to be deposited under this section.
 - a. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the depositor upon the death of the person/individual for whose benefit the funds were paid. A certified copy of the certificate of death must be furnished to the bank, credit union, savings and loan association, or trust company as prima facie evidence of death. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the person making the payment, before the death of the person/individual for whose benefit the funds are paid, upon a five-day written notice by registered or certified mail made by the bank, credit union, savings and loan association, or trust company to the depositor or transferor at the request of the person making the payment.
 - b. A purchaser of a pre-need funeral service contract may make a certain amount of the pre-need funds irrevocable. The irrevocable amount may not exceed the amount of ~~the~~ to pay for a funeral and recognized as an

allowable asset exclusion used for determining eligibility for medical assistance under section 50-24.1-02.3 at the time the contract is entered, ~~plus the portion of the three thousand dollar asset limitation the purchaser designates for funeral expenses.~~ A purchaser of a pre-need funeral service contract has forty-five days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with whom ~~from~~which the contract was entered. Any pre-need funeral service contract held by a cemetery association or a licensed funeral establishment must be fully transferable to another cemetery association or funeral establishment licensed under chapter 43-10 or a substantially similar law of another jurisdiction which agrees to accept the obligations.

2. A bank, credit union, savings and loan association, or trust company receiving such a deposit or transfer shall keep a complete record of the deposit or transfer, showing the name of the depositor or transferor, name of the person making payment, name of the ~~person~~individual for whose benefit payment is made, and any other pertinent information.
3. Any personal property to be used in funeral services or cemetery merchandise which is sold to a purchaser on the basis that it will be identified and marked as belonging to such purchaser, and stored or warehoused for the purchaser, must be stored or warehoused at some location within this state.

²⁰⁴ **SECTION 2. AMENDMENT.** Section 50-24.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.3. When designated pre-need funeral service contracts, prepayments, or deposits not to be considered in eligibility determination.

1. In determining eligibility for medical assistance, the department of human services may not consider as an available resource any pre-need funeral service contracts, prepayments, or deposits to a fund which ~~total six thousand dollars or less are placed in an irrevocable itemized funeral contract designated by the applicant or recipient as set-aside to pay for the applicant's or recipient's funeral.~~
2. An applicant or recipient designates a prepayment or deposit for that applicant's or recipient's burial by providing funds that are ~~to~~must be used for the funeral or burial expenses of the applicant or recipient. If an applicant's or recipient's burial is funded by an insurance policy, the amount considered set-aside for burial is the lesser of the cost basis or the face value of the insurance policy. ~~In addition, the applicant or recipient may designate all or a portion of the three thousand dollar asset limitation for funeral pre-need contracts, prepayments, or deposits.~~ Interest or earnings retained in a funeral fund also may not be considered as an available resource.
3. A pre-need funeral service contract, prepayment, or deposit designated under this section is not a multiple-party account for purposes of chapter 30.1-31. Any amount in a pre-need funeral service contract, prepayment, or deposit designated under this section which is not used for funeral or burial expenses must be returned to the estate of the medical assistance recipient and is subject to recovery by the department from the medical assistance recipient's

²⁰⁴ Section 50-24.1-02.3 was also amended by section 10 of House Bill No. 1115, chapter 408.

estate. ~~No~~A claim for payment of funeral expenses may not be made against the estate of a deceased medical assistance recipient except to the extent ~~that~~the funds are maintained in accordance with this ~~section total less than six thousand dollars~~chapter.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 410

HOUSE BILL NO. 1194

(Representative Keiser)
(Senator Heckaman)

AN ACT to create and enact section 50-24.1-40 of the North Dakota Century Code, relating to medical assistance tribal health care coordination agreements; to provide for a report to the legislative management; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 50-24.1-40 of the North Dakota Century Code is created and enacted as follows:

50-24.1-40. Medical assistance - Tribal health care coordination agreements - Continuing appropriation - Report to legislative management.

1. As used in this section:
 - a. "Care coordination agreement" means an agreement between a health care provider and tribal health care organization which will result in one hundred percent federal funding for eligible medical assistance provided to an American Indian.
 - b. "Tribal health care organization" means Indian health services or a tribal entity providing health care under the federal Indian Self-Determination and Education Assistance Act of 1975 [Pub. L. 93-638; 88 Stat. 2203; 25 U.S.C. 5301 et seq.].
2. The department of human services shall facilitate care coordination agreements. Of any federal funding received in excess of the state's regular share of federal medical assistance funding which results from care coordination agreements, the department shall deposit sixty percent in the tribal health care coordination fund and forty percent in the general fund.
3. There is created in the state treasury a tribal health care coordination fund.
 - a. Moneys in the fund are appropriated to the department on a continuing basis for distribution to a tribal government in accordance with an agreement between the department and a tribal government. The agreement between the department and a tribal government must require the tribe to:
 - (1) Use the money distributed under this section for health-related purposes. Health-related purposes may include population health programs or services, marketing or education related to health-related programs or services, or developing or enhancing community health representative programs or services. Health-related purposes may not include capital construction, stipends to individuals for services, or

services that are covered by Indian health services, Medicaid, or other third-party payers, or state-funded programs.

- (2) Submit to the department annual reports detailing the use of the money distributed under this section.
- (3) Submit to the department every two years an audit report, conducted by an independent licensed certified public accountant, of the tribal government use of the money distributed under this section. A tribal government may use money distributed under this section to pay for this audit report. At the discretion of a tribal government, an audit may be conducted more often than every two years.
- b. The distribution of moneys from the fund to a tribal government must be in proportion to the federal funding received from care coordination agreement requests for services originating from within that tribal nation.
- c. At least annually, upon completion of any auditing and verification actions of the department, the department shall distribute moneys from the fund to the tribal government.
- d. If a tribal government fails to file with the department a timely annual report or audit report, the department shall withhold distribution of moneys from the fund to the tribal government until the report is filed.
- e. If an audit report or the department's review of the annual report finds a tribal government used moneys distributed from the fund for a purpose inconsistent with this section, the department shall withhold future distributions to that tribal government in an amount equal to the money used improperly. The department shall distribute money withheld from a tribal government under this subdivision if a future audit report indicates moneys distributed from the fund are used for purposes consistent with this section.
4. Before August of each even-numbered year, the department shall compile and summarize the annual reports and audit reports from the participating tribal governments and provide the legislative management with a biennial report on the fund and tribal government use of money distributed from the fund.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 1, 2019

Filed May 2, 2019

CHAPTER 411

HOUSE BILL NO. 1515

(Representatives Mitskog, Schneider)
(Senators Heckaman, Mathern)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance coverage for pregnant women; and to provide an availability date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Medical assistance benefits - Pregnant women.

The department shall seek the necessary approval from the centers for Medicare and Medicaid services to expand medical assistance coverage for pregnant women with income below one hundred sixty-two percent of the federal poverty level.

SECTION 2. AVAILABILITY DATE. If the department of human services is able to obtain the necessary approval to expand medical assistance coverage in accordance with section 1 of this Act, the expanded medical assistance coverage for pregnant women becomes available January 1, 2020.

Approved April 4, 2019

Filed April 5, 2019

CHAPTER 412

HOUSE BILL NO. 1124

(Representative Weisz)
(Senator J. Lee)

AN ACT to create and enact a new subsection to section 50-24.4-15 of the North Dakota Century Code, relating to nursing home rate setting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-24.4-15 of the North Dakota Century Code is created and enacted as follows:

The department shall include in the ratesetting system for nursing homes those costs associated with computer software and any related technology, including cloud-based services. These expenses are allowed as a direct passthrough.

Approved April 4, 2019

Filed April 5, 2019

CHAPTER 413

SENATE BILL NO. 2243

(Senators J. Lee, Anderson, Kreun)
(Representatives Beadle, M. Johnson)

AN ACT to amend and reenact subsection 3 of section 50-24.6-04 of the North Dakota Century Code, relating to prior authorization for medical assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

3. a. For individuals twenty-one years of age and older, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, in the aggregate, or generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, the department may not prior authorize the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;
 - (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, for the treatment of cancer; and
 - (6) Stimulant medication used for the treatment of attention deficit disorder and attention deficit hyperactivity disorder, except an individual who prescribes this medication at a rate two times higher than the rate of the top ten prescribers excluding the top prescriber may be subject to prior authorization.
- b. For individuals under twenty-one years of age, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, in the aggregate, or generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, the department may not prior authorize the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;
 - (3) Anticonvulsants;

-
- (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, for the treatment of cancer; and
 - (6) Stimulant medication used for the treatment of attention deficit hyperactivity disorder.
- c. The restrictions of subdivision b do not apply for individuals under twenty-one years of age, who have five or more concurrent prescriptions for psychotropic medications.
 - d. Prior authorization for individuals under twenty-one years of age is required for five or more concurrent prescriptions for antipsychotics, antidepressants, anticonvulsants, benzodiazepines, mood stabilizers, sedative, hypnotics, or medications used for the treatment of attention deficit hyperactivity disorder. The department shall grant authorization to exceed the limits after a prescriber requesting authorization consults with a board certified pediatric psychiatrist approved by the department.
 - e. The restrictions of this subsection do not apply if prior authorization is required by the centers for Medicare and Medicaid services.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 414

HOUSE BILL NO. 1033

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-24.7 of the North Dakota Century Code, relating to an expanded service payments for elderly and disabled pilot project on intensive care coordination.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.7 of the North Dakota Century Code is created and enacted as follows:

Intensive care coordination - Pilot project.

The department may establish an intensive care coordination pilot project under the home and community-based service options for older adults and individuals with physical disabilities.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 415

SENATE BILL NO. 2347

(Senators K. Roers, Hogan, J. Lee)
(Representatives Boschee, Rohr, Schneider)

AN ACT to provide for liability for false medical assistance claims and to provide for a Medicaid fraud control unit; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this Act, unless the context otherwise requires:

1. "Benefit" means the provision of anything of pecuniary value under the Medicaid program.
2. "Claim" means:
 - a. Any request or demand, whether under a contract or otherwise, for money or property under the Medicaid program regardless of whether the state has title to the money or property which is:
 - (1) Presented to an officer, employee, or agent of the state; or
 - (2) Made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state:
 - (a) Provides or has provided any portion of the money or property requested or demanded; or
 - (b) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.
 - b. A claim does not include requests or demands for money or property the state has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on that individual's use of the money or property.
3. "Department" means the department of human services.
4. "Document" means an application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, or other form.
5. "Fraud" means any conduct or activity prohibited by law or rule involving knowing conduct or omission to perform a duty that results in or may result in payments to which the person is not entitled.

6. "Knowingly" means "knowingly" as defined in section 12.1-02-02.
7. "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.
8. "Medicaid agency" means an agency or entity of state, county, or local government which administers any part of the Medicaid program, whether under direct statutory authority or under contract with an authorized agency of the state or federal government.
9. "Misappropriation of patient property" means exploitation, deliberate misplacement, or wrongful use or taking of a patient's property, whether temporary or permanent, without authorization by the patient or the patient's designated representative. The term includes conduct with respect to a patient's property, which would constitute a criminal offense under chapter 12.1-23.
10. "Obligation" means an established duty, whether fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.
11. "Patient abuse" means the willful infliction of physical or mental injury of a patient or unreasonable confinement, intimidation, or punishment that results in pain, physical or mental harm, or mental anguish of a patient. The term includes conduct with respect to a patient which would constitute a criminal offense under chapter 12.1-16, 12.1-17, 12.1-18, 12.1-20, or 12.1-22.
12. "Patient neglect" means a failure, through inattentiveness, carelessness, or other omission, to provide to a patient goods and services necessary to avoid physical harm, mental anguish, or mental illness if an omission is not caused by factors beyond the person's control or by good-faith errors in judgment. The term includes conduct with respect to a patient which would constitute a criminal offense under section 12.1-17-03.
13. "Provider" means a person that furnishes items or services for which payment is claimed under the Medicaid program.
14. "Record" means medical, professional, business, or financial information and documents, whether in written, electronic, magnetic, microfilm, or other form:
 - a. Pertaining to the provision of treatment, care, services, or items to a recipient;
 - b. Pertaining to the income and expenses of the provider; or
 - c. Otherwise relating to or pertaining to a determination of entitlement to payment or reimbursement under the Medicaid program.

SECTION 2.

Liability for certain acts - Civil penalty.

1. Except as provided in subsections 2 and 3, a person is liable to the state for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars for each act specified in this section, three times the amount

of damages the state sustains because of the person's act, and costs of the investigation and litigation fees, if the person:

- a. Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;
 - b. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
 - c. Conspires to commit a violation of this section;
 - d. Has possession, custody, or control of public property or money used or to be used by the state and knowingly delivers or causes to be delivered less than all of that money or property;
 - e. Is authorized to make or deliver a document certifying receipt of property used or to be used by the state and, with the intent to defraud the state, makes or delivers a receipt without completely knowing the information on the receipt is true; or
 - f. Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state.
2. The court may assess not less than two times the amount of damages the state sustains because of the act of the person and the person is liable to the state for the costs of the civil action brought to recover any such penalty or damages if the court finds:
- a. The person committing the act furnished the attorney general with all information known to that person about the act within thirty days after the date on which the person first obtained the information;
 - b. The person fully cooperated with any investigation of the act by the attorney general; and
 - c. At the time the person furnished the attorney general with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the violation.
3. If the total claim made or presented by a person under subsection 1 is less than one hundred thousand dollars, the civil penalty for which the person is liable may not be more than fifteen percent of the total claim submitted.

SECTION 3.

Limitation of actions.

1. A civil action filed under this Act must be brought by the later of:
 - a. Six years after the date on which the violation was committed; or

- b. Three years after the date facts material to the right of action are known or reasonably should have been known by the official of the state charged with responsibility to act in the circumstances.
2. An action may not be brought pursuant to subdivision b of subsection 1 more than ten years after the date on which the violation was committed.

SECTION 4.

Investigation and action by attorney general.

The attorney general's Medicaid fraud control unit shall investigate an alleged violation of this Act and may file a civil action, a criminal action, or both against any person that violated or is violating this Act.

SECTION 5.

Burden of proof.

The standard of proof in a civil action brought under this Act is the preponderance of the evidence.

SECTION 6.

Effect of criminal conviction.

A defendant convicted in any criminal proceeding under this Act is precluded from subsequently denying the essential elements of the criminal offense of which the defendant was convicted in any civil proceeding. For purposes of this section, a conviction may result from a verdict or plea of guilty.

SECTION 7.

Costs and attorney's fees.

If the state favorably settles or prevails in a civil action in which the state intervened or filed, the state is entitled to be awarded reasonable expenses, consultant and expert witness fees, costs, and attorney's fees. In an action in which outside counsel is engaged by the attorney general, the costs and attorney's fees awarded to that counsel must equal the outside counsel's charges reasonably incurred for costs and attorney's fees in prosecuting the action. The expenses, fees, and costs must be awarded against the defendant. The state is not liable for costs, attorney's fees, or other expenses incurred by a person in bringing or defending an action under this Act.

SECTION 8.

Relief from retaliatory actions.

1. An employee, contractor, or agent is entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this Act or other efforts to stop one or more violations of this Act.

2. Relief under subsection 1 includes reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An action under this section may be brought in the appropriate district court for the relief provided in this subsection.
3. A civil action under this section may not be brought more than three years after the date the retaliation occurred.

SECTION 9.

Medicaid fraud control unit.

The Medicaid fraud control unit is established as a division of the attorney general's office. The Medicaid fraud control unit, which is under the supervision and control of the attorney general, consists of the agents and employees the attorney general considers necessary and appropriate. The Medicaid fraud control unit is a criminal justice agency within the meaning of section 12-60-16.1. Agents designated by the attorney general have peace officer status and authority, including the authority of search, seizure, and arrest. All recovered money will be forwarded to the designated state Medicaid agency for appropriate allocation between the federal government and the general fund. The portion of state match appropriations for the Medicaid fraud control unit will be appropriated from the general fund.

SECTION 10.

Powers and duties of Medicaid fraud control unit.

1. The Medicaid fraud control unit shall:
 - a. Investigate and prosecute under applicable criminal or civil laws fraud and patient abuse or neglect by providers or any other person, including cases referred by the department;
 - b. Review complaints of patient abuse, patient neglect, and misappropriation of patient property and, if appropriate, investigate and initiate criminal or civil proceedings or refer the complaint to another federal, state, or local agency for action;
 - c. Refer to the department for collection and, if appropriate, imposition of appropriate provider administrative actions involving provider overpayments and abuse;
 - d. Communicate and cooperate with and, subject to applicable confidentiality laws, provide information to other federal, state, and local agencies involved in the investigation and prosecution of health care fraud, patient abuse, and other improper activities related to the Medicaid program;
 - e. Transmit to other state and federal agencies, in accordance with law, reports of convictions, copies of judgments and sentences imposed and other information and documents for purposes of program exclusions or other sanctions or penalties under Medicaid, Medicare, or other state or federal benefit or assistance programs;

- f. Recommend to state agencies appropriate or necessary adoption or revision of laws, rules, policies, and procedures to prevent fraud, abuse, and other improper activities under the Medicaid program and to aid in the investigation and prosecution of fraud, abuse, and other improper activities under the Medicaid program; and
 - g. Enter an agreement with the Medicaid agency regarding referrals, information sharing, and improper payment recoveries as provided in title 42, Code of Federal Regulations, part 455, section 23.
2. The Medicaid fraud control unit may:
- a. Initiate criminal prosecutions and civil actions pursuant to subsection 1 in any court of competent jurisdiction in the state;
 - b. Upon request, obtain information and records from applicants, recipients, and providers;
 - c. Subject to applicable federal confidentiality laws and rules and for purposes related to any investigation or prosecution under subsection 1, obtain from the department, local offices of public assistance, and other local, county, or state government departments or agencies records and other information, including applications, provider enrollment forms, claims and reports, individual or entity tax returns, or other information provided to or in the possession of the tax commissioner or the state auditor;
 - d. Refer appropriate cases to federal, other state, or local agencies for investigation, prosecution, or imposition of penalties, restrictions, or sanctions;
 - e. Work cooperatively with federal agencies; and
 - f. Enter agreements with the department and other federal, state, and local agencies in furtherance of the unit's mission.

SECTION 11.

Medicaid fraud - Criminal penalty.

1. A person commits a criminal offense under this section if the person knowingly:
 - a. Presents for allowance, for payment, or for the purpose of concealing, avoiding, or decreasing an obligation to pay a false or fraudulent medical assistance claim, bill, account, voucher, or writing to a public agency, public servant, or contractor authorized to allow or pay medical assistance claims;
 - b. Solicits, accepts, offers, or provides any remuneration, including a kickback, bribe, or rebate in exchange for purchasing, leasing, ordering, arranging for, or recommending the purchasing, leasing, or ordering of any services or items from a provider for which payment may be made under the Medicaid program;
 - c. Solicits, accepts, offers, or provides any remuneration, including a kickback, bribe, or rebate in exchange for a fee for referring a recipient to

- another provider or arranging for the furnishing of services or items for which payment may be made under the Medicaid program;
- d. Fails or refuses to provide covered medically necessary services to eligible recipients as required with respect to a managed care contract, health maintenance organization contract, or similar contract or subcontract under the Medicaid program; or
 - e. Conspires with another person to commit a violation of this section.
2. Conduct or activity that does not violate or which is protected under the provisions of, or federal regulations adopted under 42 U.S.C. 1395nn and 42 U.S.C. 1320a-7b(b), is not considered an offense under subdivision b of subsection 1, and the conduct or activity must be accorded the same protections allowed under federal laws and regulations.
 3. A person convicted of this offense involving payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims not exceeding one thousand dollars in value is guilty of a class A misdemeanor.
 4. Notwithstanding subsection 3, if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims of the Medicaid fraud were part of a common scheme and exceed one thousand dollars in value, a violation of this Act is a class C felony.
 5. Notwithstanding subsection 3, if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims of the Medicaid fraud were part of a common scheme and exceed ten thousand dollars in value but do not exceed fifty thousand dollars, a violation of this Act is a class B felony.
 6. Notwithstanding subsection 3, if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims of the Medicaid fraud were part of a common scheme and exceed fifty thousand dollars in value, a violation of this Act is a class A felony.
 - a. For purposes of imposing sentence for a conviction under this Act, the value of payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims involved is the greater of the value of Medicaid payments or benefits received as a result of the illegal conduct or activity or the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claim involved.
 - b. Amounts involved in Medicaid fraud committed pursuant to a common scheme or the same transaction may be aggregated in determining the value involved.
 - c. A person convicted of the offense of Medicaid fraud must be suspended from participation in the Medicaid program:
 - (1) For any period of time not less than one year for a first offense or the person may be permanently terminated from participation in the medical assistance program;

- (2) For any period of time not less than three years for a second offense, or the person may be permanently terminated from participation in the medical assistance program; or
 - (3) Permanently for a third offense.
7. In addition to any other penalty provided by law, a person convicted of Medicaid fraud is not entitled to bill or collect from the recipient, the Medicaid program, or any other third-party payer for the services or items involved and shall repay to the Medicaid program any payments or benefits obtained by any person for the services or items involved.

SECTION 12.

Civil investigative demands and subpoenas - Failure to comply - Confidentiality.

1. If the attorney general, or a designee, has reason to believe a person may be in possession, custody, or control of documentary material or information relevant to an investigation under this Act, the attorney general, or a designee, may, before commencing a civil proceeding under section 5 of this Act, issue in writing and cause to be served upon the person, a civil investigative demand or subpoena requiring the person to, under oath:
 - a. Produce the documentary material for inspection and copying;
 - b. Answer in writing written interrogatories with respect to the documentary material or information;
 - c. Give oral testimony concerning the subject matter of the investigation, including any documentary material or information; or
 - d. Furnish any combination of the material, answers, or testimony.
2. If a civil investigative demand or subpoena is an express demand for product of discovery, the attorney general or a designee shall cause to be served, a copy of such demand upon the person from which the discovery was obtained and shall notify the person to which such demand is issued of the date on which the copy was served.
3. If a person objects to or otherwise fails to comply with a civil investigative demand or subpoena served upon that person under subsection 1, the attorney general may file in the district court a petition for an order to enforce the demand or subpoena. If the court finds the demand or subpoena is proper, the court shall order the person to comply with the demand or subpoena and may grant such injunctive or other relief as may be required until the person complies with the demand or subpoena. Notice of hearing on the petition and a copy of the petition must be served upon the person that may appear in opposition to the petition. If the attorney general prevails in an action brought under this subsection, the court shall award to the attorney general reasonable attorney's fees, costs, and expenses incurred in bringing the action.
4. Any testimony taken or material produced under this section must be kept confidential by the attorney general before bringing an action against a person under this chapter for the violation under investigation, unless confidentiality is

waived by the person being investigated and the person that testified, answered interrogatories, or produced material, or disclosure is authorized by the court.

5. Information obtained by the attorney general or designee may be shared with a person that initiated the action if the attorney general or designee determine it is necessary as part of any investigation under this Act and the person agrees to comply with the confidentiality provisions provided in subsection 4, and unless otherwise provided by state or federal law.

SECTION 13.

Cooperation of governmental agencies with Medicaid fraud control unit.

All local, county, and state departments and agencies shall cooperate with the Medicaid fraud control unit and the unit's agents and employees to effectuate the purposes of the unit.

SECTION 14.

Authorization to adopt rules.

The attorney general may adopt rules, pursuant to chapter 28-32, to implement this Act.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 416

HOUSE BILL NO. 1108

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact three new sections to chapter 50-25.1 of the North Dakota Century Code, relating to child abuse and neglect family services assessments and evidence-based screening tool records; and to amend and reenact section 50-25.1-02, subsection 1 of section 50-25.1-03, sections 50-25.1-05, 50-25.1-05.1, 50-25.1-05.4, 50-25.1-06.1, and 50-25.1-09, subsection 2 of section 50-25.1-11, and subsection 8 of section 50-25.1-15 of the North Dakota Century Code, relating to child abuse and neglect and family services assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁵ **SECTION 1. AMENDMENT.** Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means an individual who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a public or private school or child care setting.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol ~~abuse~~ ~~or dependence~~ ~~use disorder~~ as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.
4. "Alternative response assessment" means a child protection response involving substance exposed newborns which is designed to:

²⁰⁵ Section 50-25.1-02 was also amended by section 6 of House Bill No. 1520, chapter 256, section 124 of Senate Bill No. 2124, chapter 391, section 8 of Senate Bill No. 2245, chapter 406, and section 3 of Senate Bill No. 2273, chapter 108.

- a. Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn; and
 - b. Develop a plan of safe care for the substance exposed newborn.
5. ~~"Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.~~
 6. "Authorized agent" means the county social service board, unless another entity is designated by the department.
 6. "Child protection assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child and an evidence-based screening tool.
 7. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.
 8. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
 9. "Department" means the department of human services or its designee.
 10. "Family services assessment" means a child protection services response to reports of suspected child abuse or neglect in which the child is determined to be at low risk and safety concerns for the child are not evident according to guidelines developed by the department and an evidence-based screening tool.
 11. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.
 - 44-12. "Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The

department shall coordinate the organization of local child protection teams on a county or multicounty basis.

- ~~42-13.~~ "Near death" means an act ~~which that~~, as certified by a physician, places a child in serious or critical condition.
- ~~43-14.~~ "Neglected child" means a deprived child as defined in chapter 27-20.
- ~~44-15.~~ "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery ~~efor~~ the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.
- ~~45-16.~~ "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- ~~46-17.~~ "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.
- ~~47-18.~~ "Substance exposed newborn" means an infant younger than twenty-eight days of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum disorder.

SECTION 2. AMENDMENT. Subsection 1 of section 50-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any dentist; optometrist; dental hygienist; medical examiner or coroner; tier 1 mental health professional, tier 2 mental health professional, tier 3 mental health professional, or tier 4 mental health professional as defined under section 25-01-01; or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee, licensed social worker, family service specialist, child care licensor, or member of the clergy having knowledge of or reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion

is derived from information received by that individual in that individual's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.

SECTION 3. AMENDMENT. Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05. AssessmentChild protection assessment - Alternative response assessment - Family services assessment.

1. The department, in accordance with rules adopted by the department, immediately shall initiate ~~ana child protection~~ assessment ~~or,~~ alternative response assessment, ~~or family services assessment~~ or cause an assessment, of any report of child abuse or neglect including, when appropriate, the child protection assessment ~~or,~~ alternative response assessment, ~~or family services assessment~~ of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.
2. According to guidelines developed by the department, the department may initiate an alternative response assessment or family services assessment if the department determines initiation is appropriate.
3. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department shall initiate a child protection assessment by contacting the law enforcement agency having jurisdiction over the alleged criminal violation. The department and an appropriate law enforcement agency shall coordinate the planning and execution of ~~the~~the child protection assessment and law enforcement investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. If the law enforcement agency declines to investigate, the department shall continue the child protection assessment to a determination.
4. The department or the law enforcement agency may:
 - a. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services.
 - b. Interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator.
 - c. Conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.
- 4-5. Except as prohibited under title 42, Code of Federal Regulations, part 2, a medical, dental, or mental health professional, hospital, medical or mental health facility, or health care clinic shall disclose to the department or the department's authorized agent, upon request, the records of a patient or client which are relevant to ~~ana child protection~~ assessment of reported child abuse or neglect or to a services required decision. The department, or the department's authorized agent, shall limit the request for records to the minimum amount of records necessary to enable a determination to be made

or to support a determination of whether services are required to provide for the protection and treatment of an abused or neglected child.

- ~~5-6.~~ The department shall adopt guidelines for case referrals to a children's advocacy center. When cases are referred to a children's advocacy center, all interviews of the alleged abused or neglected child conducted at the children's advocacy center under this section shall be audio-recorded or video-recorded.

SECTION 4. AMENDMENT. Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.1. Services required - How determined.

Upon completion of the child protection assessment of the initial report of child abuse or neglect, a decision must be made whether services are required to provide for the protection and treatment of an abused or neglected child.

1. This determination is the responsibility of the department.
2. A decision that services are required may not be made ~~whenif~~ the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child ~~whenif~~ the child's life or safety requires ~~itsuch an order~~ or the child is subject to harm or threatened harm.

SECTION 5. AMENDMENT. Section 50-25.1-05.4 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.4. Department to adopt rules for review of child protection assessment findings.

The department shall adopt rules to resolve complaints and conduct appeal hearings requested by the subject of a report of suspected child abuse, neglect, or death resulting from abuse or neglect who is aggrieved by the conduct or result of ~~an~~ child protection assessment.

²⁰⁶ **SECTION 6. AMENDMENT.** Section 50-25.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-06.1. Caseload standards - Reimbursement.

The department shall adopt caseload standards establishing minimum staff-to-client ratios for the child protection assessment ~~and~~, alternative response assessment, ~~and family services assessment~~ of reports of child abuse or neglect and the provision of protective services. Within the limits of legislative appropriation, the department shall reimburse its authorized agent, upon claim being made by the authorized agent, for seventy-five percent of additional staff costs caused by the imposition of such caseload standards. Upon a determination that legislative appropriations are insufficient to reimburse each claiming authorized agent in the amount of seventy-five percent of such additional staff costs, the department shall reimburse each claiming authorized agent for that percentage of additional staff costs which the appropriation is sufficient to defray.

²⁰⁶ Section 50-25.1-06.1 was repealed by section 139 of Senate Bill No. 2124, chapter 391.

SECTION 7. AMENDMENT. Section 50-25.1-09 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-09. Immunity from liability.

Any person, other than the alleged violator, participating in good faith in the making of a report, assisting in an investigation, assisting or furnishing information in ~~ana~~ child protection assessment, assisting or furnishing information in an alternative response assessment, assisting or furnishing information in a family services assessment, or in providing protective services under this chapter or who is a member of the child fatality review panel, is immune from any liability, civil or criminal, except for criminal liability as provided by section 50-25.1-13, that otherwise might result from reporting the alleged case of abuse, neglect, or death resulting from child abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse, neglect, or death resulting from abuse or neglect must be presumed.

²⁰⁷ **SECTION 8. AMENDMENT.** Subsection 2 of section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. The department shall notify the parent or legally appointed guardian of a child receiving early childhood services under chapter 50-11.1 of the name of the subject and provide a summary of the facts and the results of ana child protection assessment conducted under this chapter if the report made under this chapter involves the owner, operator, staff member, or household member of the early childhood program, the holder of a self-declaration or a household member of the holder of a self-declaration, or the in-home provider or a household member of the in-home provider, who is providing care to the child.

²⁰⁸ **SECTION 9. AMENDMENT.** Subsection 8 of section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

8. Upon receiving a report of an abandoned infant left at a hospital under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or the agent. If it appears the abandoned infant was harmed, the department shall initiate ana child protection assessment of the matter as required by law.

SECTION 10. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Family services assessment - Compliance.

If a family services assessment is initiated as a result of a report of child abuse or neglect, a decision that services are required may not be made if the person responsible for the child's welfare complies with the resulting referred services for the child. The department shall determine whether a person responsible for the child's welfare has complied with the referred services. If the department determines a person responsible for the child's welfare has not complied with the referred services

²⁰⁷ Section 50-25.1-11 was also amended by section 4 of Senate Bill No. 2043, chapter 407.

²⁰⁸ Section 50-25.1-15 was also amended by section 1 of House Bill No. 1285, chapter 417.

for the child, a child protection assessment of the initial report of child abuse or neglect may be completed.

SECTION 11. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Family services assessment - Services.

1. In response to a family services assessment, the department shall provide appropriate referral services to the person responsible for the child's welfare and the children under the same care as may be necessary for the well-being of the children.
2. The department may discharge the powers and duties provided under this section through an authorized agent.

SECTION 12. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Evidence-based screening tool records - Confidentiality - Admissibility - Privileged.

1. Evidence-based screening tool records are confidential and may be only used for conducting a screening, treatment, referral for services, and receiving services.
2. Evidence-based screening tool records are not subject to section 50-25.1-11.
3. The department may release reports, data compilations, analyses, and summaries, which identify or analyze trends.
4. Evidence-based screening tool records are privileged and are not subject to subpoena or discovery or introduction into evidence in any civil or administrative action.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 417

HOUSE BILL NO. 1285

(Representatives Skroch, Ertelt, Fegley, Johnston, Jones, Karls, Rohr, M. Ruby,
Schneider)
(Senators Myrdal, Poolman)

AN ACT to amend and reenact section 50-25.1-15 of the North Dakota Century Code, relating to abandoned infants at certain locations; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁹ **SECTION 1. AMENDMENT.** Section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-15. Abandoned infant - ~~Hospital~~Approved location procedure - Reporting immunity.

1. As used in this section:
 - a. "Abandoned infant" means an ~~abandoned infant as defined in section 27-20-02 and which~~who has been abandoned at birth at a hospital or before reaching the age of one year regardless of the location of birth and who has been left with an on-duty staff member at a hospital~~an approved location~~ in an unharmed condition.
 - b. "Approved location" means a hospital or other location as designated by administrative rule adopted by the department.
 - c. "Hospital" means a facility licensed under chapter 23-16.
2. A parent of an infant under the age of one year. or an agent of the parent with the parent's consent. may ~~abandon~~leave the infant with an on-duty staff member at any hospital. An agent of the parent may leave an abandoned infant at a hospital with the parent's consent~~an approved location~~. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving ~~the~~an abandoned infant ~~at a hospital.~~
3. ~~A hospital~~An approved location shall accept an infant ~~abandoned or left~~ under this section. ~~The hospital~~approved location may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope with the ~~hospital's~~approved location's return address. If a hospital accepting the infant has the infant's medical history, the hospital is not required to provide the parent or the agent with a medical history form. Neither the parent nor the agent is required to provide any information.
4. ~~The~~If an infant is left at a hospital, the hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to

²⁰⁹ Section 50-25.1-15 was also amended by section 9 of House Bill No. 1108, chapter 416.

~~the abandoned infant, unless due to birth of the infant, the infant and parent currently have an identification bracelet. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.~~

5. ~~The hospital approved location~~ may provide the parent or the agent with any relevant information, including:
 - a. Information about the safe place for abandoned infant programs;
 - b. Information about adoption and counseling services; and
 - c. Information about whom to contact if reunification is sought.
6. Within twenty-four hours of receiving an abandoned infant under this section, ~~the hospital approved location~~ shall report to the department, as required by section 50-25.1-03, that an abandoned infant has been left at the ~~hospital approved location~~. The report may not be made before the parent or the agent leaves the ~~hospital approved location~~.
7. ~~The hospital approved location~~ and its employees and agents are immune from any criminal or civil liability for accepting an abandoned infant under this section.
8. Upon receiving a report of an abandoned infant ~~left at a hospital~~ under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or the agent. If it appears the abandoned infant who was left was harmed, the department shall initiate an assessment of the matter as required by law.
9. If an individual claiming to be the parent or the agent contacts the department and requests to be reunited with the abandoned infant who was left, the department may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department seeking information only, the department may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in ~~an abandoned case involving an infant case~~who was left at an approved location. The individual is under no obligation to respond to the request for information, and the department may not attempt to compel response to investigate the identity or background of the individual.
10. The state department of health, in coordination with the department of human services, shall develop and implement a public awareness campaign to provide information, public service announcements, and educational materials regarding this section to the public, including medical providers, law enforcement, and social service agencies.

SECTION 2. REPORT TO LEGISLATIVE MANAGEMENT - ABANDONED INFANTS. Before July 1, 2020, the state department of health shall report to the legislative management the status and progress of implementing section 1 of this Act.

Approved April 24, 2019

Filed April 24, 2019

CHAPTER 418

HOUSE BILL NO. 1107

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 1 of section 50-10.1-03, section 50-25.2-02, subsection 1 of section 50-25.2-03, section 50-25.2-04, subsection 1 of section 50-25.2-05, and sections 50-25.2-12, 50-25.2-13, and 50-25.2-14 of the North Dakota Century Code, relating to the duties of the state long-term care ombudsman and vulnerable adult protective services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-10.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Investigate and resolve complaints about administrative actions that may adversely affect or may have adversely affected the health, safety, welfare, or personal or civil rights of ~~persons~~individuals in long-term care facilities or ~~persons~~individuals who have been discharged from long-term care facilities within ~~nine months~~one month of the complaint against the facility.

SECTION 2. AMENDMENT. Section 50-25.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-02. Adult protective services program - Rules.

~~The department, with the advice and cooperation of county social service boards,~~ shall develop, administer, and cause to be implemented a program of protective services for vulnerable adults consistent with this chapter. In developing and administering the program, the department, within the limits of legislative appropriation, shall allocate and distribute funds for the purpose of providing adult protective services. All law enforcement agencies, courts of competent jurisdiction, and appropriate state and local agencies shall cooperate in the implementation and enforcement of this chapter. The department may adopt rules in accordance with chapter 28-32 for the purpose of implementing the provisions of this chapter.

SECTION 3. AMENDMENT. Subsection 1 of section 50-25.2-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any medical or mental health professional or personnel, law enforcement officer, firefighter, member of the clergy, or caregiver having knowledge a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, shall report the information to the department, or the department's designee, or to an appropriate law enforcement agency if the knowledge is derived from information received by that individual in that individual's official or professional capacity. A member of the clergy, however, is not required to report the information if the knowledge is derived from information received in the capacity of spiritual adviser. An individual in the position of a long-term care ombudsman is not a mandated

reporter of suspected abuse or neglect. For purposes of this subsection, "medical or mental health professional or personnel" means a professional or personnel providing health care or services to a vulnerable adult, on a full-time or part-time basis, on an individual basis or at the request of a caregiver, and includes a medical examiner, coroner, dentist, dental hygienist, optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational therapist, tier 1 through tier 4 mental health professional as defined under section 25-01-01, emergency medical services personnel, hospital personnel, nursing home personnel, congregate care personnel, or any other person providing medical and mental health services to a vulnerable adult.

SECTION 4. AMENDMENT. Section 50-25.2-04 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-04. Referral of complaints concerning long-term care facilities.

Any report received by the department or the department's designee under section 50-25.2-03 complaining of any administrative action, as defined in section 50-10.1-01, that may adversely affect or may have adversely affected the health, safety, welfare, or personal or civil rights of a resident in a long-term care facility, as defined in section 50-10.1-01, or ~~a person~~ an individual who was discharged from a long-term care facility within ~~nine months~~ one month of the complaint, must be referred to the state long-term care ombudsman for investigation pursuant to chapter ~~50-10-1.~~

SECTION 5. AMENDMENT. Subsection 1 of section 50-25.2-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The department or the department's designee shall immediately evaluate and assess any report received by the department or the department's designee under section 50-25.2-03, including the residence of the alleged vulnerable adult and the circumstances surrounding the report. For the purpose of evaluating a report or providing other adult protective services, the department or the department's designee may:
 - a. Interview the alleged vulnerable adult, with or without notice to the caregiver or any other person, and interview the caregiver and any other ~~person~~ individual who may have knowledge of the circumstances surrounding the report;
 - b. Enter any premises in which the alleged vulnerable adult is an occupant, with the consent of the alleged vulnerable adult or the caregiver;
 - c. Have access to all records of the vulnerable adult:
 - (1) If the vulnerable adult, or the caregiver or legal representative of the vulnerable adult, has authorized the department or the department's designee to have access; ~~or~~
 - (2) If the vulnerable adult, because of a substantial functional or mental impairment, is unable to authorize the department or the department's designee to have such access, does not have a legal guardian or other legal representative, and is ~~a person~~ an individual with respect to whom a report was received by the department or the department's designee; ~~and/or~~

- (3) If the vulnerable adult, because of a substantial functional or mental impairment, is unable to authorize the department or the department's designee to have such access, the legal guardian or other legal representative is alleged to cause the circumstances surrounding the report, and is an individual with respect to whom a report was received by the department or the department's designee:
- d. Coordinate the assessment and the provision of other adult protective services with other state or local agencies, departments, or institutions, including the agency of the protection and advocacy project, or private agencies, organizations, and professionals providing services necessary or advisable for the vulnerable adult; and
 - e. Request records, except as prohibited under title 42, Code of Federal Regulations, part 2, from a medical, dental, or mental health professional, hospital, medical or mental health facility, or health care clinic regarding a vulnerable adult with respect to whom a report was received by the department or the department's designee. A medical, dental, or mental health professional, hospital, medical or mental health facility, or health care clinic shall disclose to the department or the department's designee, upon request, the records of a patient or client which are relevant to a vulnerable adult evaluation, assessment or other adult protective services. The department, or the department's designee, shall limit the request for records to the minimum amount of records necessary to enable a determination to be made or to support other adult protective services.

SECTION 6. AMENDMENT. Section 50-25.2-12 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-12. Confidentiality of records - Authorized disclosures.

All reports made under this chapter and all records and information obtained or generated as a result of the reports are confidential, but must be made available to:

1. A physician who examines a vulnerable adult whom the physician reasonably suspects may have been subject to abuse or neglect if the identity of individuals reporting under section 50-25.2-03 is protected.
2. Authorized staff of the department or the department's designee, law enforcement agencies, and other agencies investigating, evaluating, or assessing the report or providing adult protective services.
3. A personvulnerable adult who is the subject of a report if the identity of personsindividuals reporting under section 50-25.2-03 is protected.
4. Public officials, and their authorized agents, who require the information in connection with the discharge of their official duties.
5. A court when it determines that the information is necessary for determination of an issue before the court.
6. A person engaged in a bona fide research or auditing purpose if no information identifying the subjects of a report is made available to the researcher or auditor.

7. A guardian or legal representative of the vulnerable adult who is the subject of a report if the identity of individuals reporting under section 50-25.2-03 is protected and the guardian or legal representative is not suspected of abusing or neglecting the vulnerable adult.

SECTION 7. AMENDMENT. Section 50-25.2-13 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-13. Information, education, and training programs.

1. ~~The department, in cooperation with county social service boards and law enforcement agencies,~~ shall conduct a public information and education program. The elements and goals of the program must include:
 - a. Informing the public regarding the laws governing the abuse or neglect of vulnerable adults, the voluntary and mandatory reporting authorized by this chapter, and the need for and availability of adult protective services.
 - b. Providing caregivers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caregiver and vulnerable adult relationship.
2. ~~The department, in cooperation with county social service boards and law enforcement agencies,~~ shall institute a program of education and training for the department, the department's designee, and law enforcement agency staff and other ~~persons~~individuals who provide adult protective services.

²¹⁰ **SECTION 8. AMENDMENT.** Section 50-25.2-14 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-14. Implementation contingent upon appropriation.

~~The department and county social service boards are~~is not required to implement or enforce this chapter with respect to any region, area, or county of this state if the legislative assembly does not provide an appropriation to support the implementation and enforcement of this chapter within that region, area, or county.

Approved March 20, 2019

Filed March 21, 2019

²¹⁰ Section 50-25.2-14 was also amended by section 126 of Senate Bill No. 2124, chapter 391.

CHAPTER 419

SENATE BILL NO. 2289

(Senators J. Lee, Hogan, Poolman)
(Representatives Beadle, Dockter)

AN ACT to create and enact chapter 50-25.3 of the North Dakota Century Code, relating to family visitation rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 50-25.3 of the North Dakota Century Code is created and enacted as follows:

50-25.3-01. Definitions.

As used in this chapter:

1. "Caregiver" means a person that has assumed the legal responsibility or a contractual obligation for the care of a vulnerable adult or has voluntarily assumed responsibility for the care of a vulnerable adult. The term includes a facility operated by a public or private agency, organization, or institution which provides services to, and has assumed responsibility for the care of, a vulnerable adult.
2. "Clergy member" means a member of the clergy or spiritual counselor who has provided a vulnerable adult with religious or spiritual care or who represents a religious organization to which a vulnerable adult is a member.
3. "Family member" means an individual related by blood, marriage, or adoption to a vulnerable adult.
4. "Friend" means an individual who is in a dating relationship with a vulnerable adult or any other individual with whom a vulnerable adult has an established relationship.
5. "Substantial functional impairment" means, because of physical limitations, a substantial incapability of living independently or providing self-care as determined through observation, diagnosis, evaluation, or assessment.
6. "Substantial mental impairment" means a substantial disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, evaluation, or assessment.
7. "Vulnerable adult" means an adult who has a substantial mental or functional impairment or an adult who is experiencing visitation restrictions while under the care of a caregiver.

50-25.3-02. Visitation of a vulnerable adult by family members, friends, or clergy member.

A caregiver may not unreasonably or arbitrarily deny or restrict visitation to a family member, friend, or clergy member or communication or interaction between a vulnerable adult and a family member, friend, or clergy member.

50-25.3-03. Petition for visitation.

1. A family member, friend, or clergy member who has had visitation unreasonably or arbitrarily denied or restricted by a caregiver may file with the district court located in the county wherein the vulnerable adult resides a petition to compel visitation.
2. The petition must state:
 - a. The petitioner's relationship to the vulnerable adult;
 - b. Whether the caregiver is unreasonably or arbitrarily denying or restricting visitation between the petitioner and the vulnerable adult; and
 - c. The facts supporting the petitioner's allegation that the caregiver is unreasonably or arbitrarily denying or restricting visitation between the petitioner and the vulnerable adult.
3. The court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, the petitioner shall provide to the caregiver, vulnerable adult, and other interested parties notice of the filing of the petition and of the time and place of hearing.
4. The court shall conduct an in-camera interview of the vulnerable adult to determine the wishes of the vulnerable adult. The in-camera interview may be on the record. The court shall give deference to the vulnerable adult's preference in making decisions.
5. The court may not issue an order compelling visitation if the court finds the vulnerable adult, while having the capacity to evaluate and communicate decisions regarding visitation, expresses a desire to not have visitation with the petitioner.
6. If the court grants the petition for visitation, the court may impose conditions on visitation between the petitioner and the vulnerable adult after consultation with the vulnerable adult and based on the minimum visitation necessary to allow the vulnerable adult to maintain maximum self-reliance and independence. The petitioner is responsible for paying costs associated with the visitation, including transportation and supervision costs. Visitation may not occur in a manner that negatively impacts the medical or treatment needs of the vulnerable adult.
7. The court may prohibit contact between the petitioner and the vulnerable adult when contact is not in the best interest of the vulnerable adult.
8. The court shall impose the cost of filing the petition for visitation and reasonable attorney's fees incurred by the petitioner on the caregiver, if the court finds during a hearing under this section that:
 - a. The caregiver unreasonably or arbitrarily denied or restricted visitation to a family member, friend, or clergy member; and

- b. The caregiver denied or restricted visitation between the petitioner and the vulnerable adult in bad faith.
- 9. The court may not impose costs or fees under subsection 6 on the vulnerable adult or a caregiver that in good faith denied or restricted visitation to a family member, friend, or clergy member. Costs, fees, or other sanctions imposed under subsection 6 may not be paid from the vulnerable adult's finances or estate.

50-25.3-04. Expedited hearing.

If a petition for visitation states the vulnerable adult's health is in significant decline or the vulnerable adult's death may be imminent, the court shall conduct an emergency hearing on the petition as soon as practicable and no later than fourteen days after the date the petition is filed with the court, or at a later date upon a showing of good cause.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 420

SENATE BILL NO. 2106

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-29-01, 50-29-02, 50-29-03, 50-29-04, and 50-29-05 of the North Dakota Century Code, relating to the children's health insurance program; to repeal section 50-29-06 of the North Dakota Century Code, relating to a continuing appropriation for grants and donations received for the children's health insurance program; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹¹ **SECTION 1. AMENDMENT.** Section 50-29-01 of the North Dakota Century Code is amended and reenacted as follows:

50-29-01. Definitions.

As used in this chapter:

1. "Children eligible for medical assistance" means the population eligible for Medicaid before the expansion of medical assistance as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152].
2. "Children's health insurance program" means a program to provide health assistance to low-income children funded through title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.].
- ~~2-3.~~ "County agency" means the county social service board.
- ~~3-4.~~ "Department" means the department of human services.
- ~~4-5.~~ "Plan" means the children's health insurance program state plan.
- ~~5-6.~~ "Poverty line" means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with 42 U.S.C. 9902(2), applicable to a family of the size involved.

²¹² **SECTION 2. AMENDMENT.** Section 50-29-02 of the North Dakota Century Code is amended and reenacted as follows:

50-29-02. Duties of the department.

1. The department shall prepare;

²¹¹ Section 50-29-01 was also amended by section 127 of Senate Bill No. 2124, chapter 391.

²¹² Section 50-29-02 was also amended by section 128 of Senate Bill No. 2124, chapter 391.

- a. ~~Prepare~~, submit, and implement the plan that includes determinations of eligibility, based on modified adjusted gross income methodologies as required in 42 U.S.C. 1396a(e)(14);
2. b. Supervise the administration of the children's health insurance program throughout this state;
3. c. ~~Take action, give directions, and adopt~~ Adopt rules and regulations as may be necessary or desirable to carry out the provisions of to qualify for any federal funds available under this chapter;
4. ~~After federal approval of the plan, apply for a federal waiver allowing plan coverage for a family through an employer-based insurance policy if an employer-based family insurance policy is more cost-effective than the traditional plan coverage for the children;~~
5. d. ~~Report annually to the legislative council and describe~~ to the legislative management, as requested, regarding enrollment statistics and, program costs associated with the plan, and any operational updates;
6. e. Reimburse counties for expenses incurred in the administration of the children's health insurance program at rates based upon all counties' total administrative costs; and
7. f. Administer ~~all~~ funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.
2. Within the limits of legislative appropriation, the department may submit state plans and may seek appropriate waivers of the requirements of the federal statutes or regulations as authorized by federal law.

²¹³ **SECTION 3. AMENDMENT.** Section 50-29-03 of the North Dakota Century Code is amended and reenacted as follows:

50-29-03. Duties of county agency.

In the administration of the plan, ~~unless the department otherwise establishes eligibility, the~~ county agency shall:

1. ~~Administer the plan under the direction and supervision of the department; and~~
2. ~~Make an investigation and record the circumstances of each applicant, obtaining~~ investigate and record the circumstances of each applicant or recipient of assistance, in order to ascertain the facts supporting the application, or the granting of assistance, and obtain such other information as may be required by the rules and regulations of the department.

SECTION 4. AMENDMENT. Section 50-29-04 of the North Dakota Century Code is amended and reenacted as follows:

50-29-04. Plan requirements.

²¹³ Section 50-29-03 was also amended by section 129 of Senate Bill No. 2124, chapter 391.

The plan:

1. ~~Must be provided through private contracts with insurance carriers; consistent with coverage provided to children eligible for medical assistance in the state; and~~
2. ~~Must allow conversion to another health insurance policy;~~
3. ~~Must be based on an actuarial equivalent of a benchmark plan;~~
4. ~~Must incorporate every state required waiver approved by the federal government;~~
5. ~~Must include community-based eligibility outreach services; and~~
6. Must provide:
 - a. ~~A modified adjusted gross income eligibility limit based on a net income eligibility equivalent of one hundred sixtyseventy-five percent of the poverty line; and~~
 - b. ~~A copayment requirement for each pharmaceutical prescription and for each emergency room visit;~~
 - c. ~~A deductible for each inpatient hospital visit;~~
 - d. Coverage for:
 - (1) ~~Inpatient hospital, medical, and surgical services;~~
 - (2) ~~Outpatient hospital and medical services;~~
 - (3) ~~Psychiatric and substance abuse services;~~
 - (4) ~~Prescription medications;~~
 - (5) ~~Preventive screening services;~~
 - (6) ~~Preventive dental and vision services; and~~
 - (7) ~~Prenatal services; and~~
 - e. ~~A coverage effective date that is~~Current eligibility may be established from the first day of the month, following the date of in which the application and determination of eligibility was received. Retroactive eligibility may be established for the three calendar months that immediately preceded the month in which the application was received even if there is no eligibility in the month of application. Eligibility can be established if all factors of eligibility are met during each month.

SECTION 5. AMENDMENT. Section 50-29-05 of the North Dakota Century Code is amended and reenacted as follows:

50-29-05. Limitations of chapter.

Health assistance provided under this chapter is not an entitlement. A person does not have a property interest in any health assistance sought or provided under this chapter. If the department estimates that available funds are insufficient to allow participation by additional applicants, the department may take any action appropriate to avoid commitment of funds in excess of available funds, including denying applications and establishing waiting lists, that is not forbidden by title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.] or regulations adopted thereunder. ~~Notwithstanding any other provisions of this chapter, the department may not expend funds for purposes of this chapter which exceed the federal funds available and the corresponding nonfederal share, and if federal children's health insurance program funding decreases, or if federal funding expires, the department may decrease the income eligibility limit to accommodate the decrease inoperate within the federal funding, notwithstanding any other provisions of this chapter available or may terminate the program if federal funding expires.~~

SECTION 6. REPEAL. Section 50-29-06 of the North Dakota Century Code is repealed.

SECTION 7. EFFECTIVE DATE. This Act becomes effective on January 1, 2020.

Approved April 11, 2019

Filed April 12, 2019

CHAPTER 421

HOUSE BILL NO. 1103

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact two new sections to chapter 50-31 of the North Dakota Century Code, relating to licensure of an opioid treatment medication unit and fees; and to amend and reenact section 50-31-01 and subsection 1 of section 50-31-05 of the North Dakota Century Code, relating to the definition of medication unit and the licensure of substance abuse treatment programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-31-01 of the North Dakota Century Code is amended and reenacted as follows:

50-31-01. Definitions.

1. "Department" means the department of human services.
2. "Medication unit" means a facility established as part of, but geographically separate from, an opioid treatment program, from which a licensed practitioner dispenses or administers an opioid treatment medication or collects samples for drug testing or analysis.
3. "Opioid treatment program" means a program through which medication is dispensed in the treatment of opioid addiction.

SECTION 2. AMENDMENT. Subsection 1 of section 50-31-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The department ~~is authorized to~~ may issue licenses to operate substance abuse treatment programs, for a period of ~~two~~ three years, which are found to comply with the provisions of this chapter and rules adopted by the department.

SECTION 3. A new section to chapter 50-31 of the North Dakota Century Code is created and enacted as follows:

Opioid treatment medication unit - Licensure required - Rules.

1. A medication unit may not operate in this state, unless the unit operates under the license of an opioid treatment program and holds:
 - a. A separate registration from the United States department of justice drug enforcement administration; and
 - b. A medication unit license under the department.
2. The department may license a medication unit. A separate license is required for each location at which a medication unit is operated under this section.

3. The department shall adopt rules relating to licensing and monitoring a medication unit, including rules for:
 - a. Standards for approval and maintenance of licensure;
 - b. Assessment of need for a medication unit in the proposed location, including community engagement; and
 - c. Standards of patient care.

SECTION 4. A new section to chapter 50-31 of the North Dakota Century Code is created and enacted as follows:

Fees - Rules.

An applicant for licensure under this chapter shall submit a one hundred fifty dollar nonrefundable fee with the application. The department shall adopt rules as necessary to implement this section. All fees collected under this section must be paid to the department and must be used to defray the cost of administering and enforcing this chapter.

Approved March 8, 2019

Filed March 8, 2019