

Sixty-ninth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1120

Introduced by

Human Services Committee

(At the request of the Department of Health and Human Services)

1 A BILL for an Act to amend and reenact sections 14-15-09, 14-15-11, 50-12-09, 50-12-10, and
2 50-12-17 of the North Dakota Century Code, relating to the revised uniform adoption act and
3 child-placing agencies; to repeal sections 50-12-02.1 and 50-12-11 of the North Dakota Century
4 Code, relating to out-of-state child-placing agencies and revocation of license; and to provide a
5 penalty.

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

7 **SECTION 1. AMENDMENT.** Section 14-15-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **14-15-09. Petition for adoption.**

- 10 1. A petition for adoption must be signed and verified by the petitioner, filed with the clerk
11 of the court, and state:
- 12 a. The date and place of birth of the individual to be adopted, if known.
 - 13 b. The name to be used for the individual to be adopted.
 - 14 c. The date petitioner acquired custody or date of placement of the minor and the
15 name of the individual placing the minor.
 - 16 d. The full name, age, place, and duration of residence of the petitioner.
 - 17 e. The marital status of the petitioner, including the date and place of marriage, if
18 married.
 - 19 f. That the petitioner has facilities and resources, including those available under a
20 subsidy agreement, suitable to provide for the nurture and care of the minor to be
21 adopted, and that it is the desire of the petitioner to establish the relationship of
22 parent and child with the individual to be adopted.

- 1 g. A description and estimate of value of any property of the individual to be
2 adopted.
- 3 h. The name of any individual whose consent to the adoption is required, but who
4 has not consented, and facts or circumstances which excuse the lack of the
5 individual's consent normally required to the adoption.
- 6 i. The department as respondent.
- 7 j. The human service zone as respondent if the minor to be adopted is in the
8 custody of the human service zone.
- 9 k. ~~That the petitioner's expenses were reasonable as verified by the court.~~
10 Reasonable fees may be charged for professional services and living expenses if
11 reflected in a report of agreements and disbursements filed under this chapter
12 and approved by the court. The fees may not be contingent upon placement of
13 the child for adoption, consent to adoption, or cooperation in the completion of
14 adoption. Reasonable fees may include:
- 15 (1) ~~Preplacement counseling, adoption assessment, placement of the child,~~
16 ~~foster care, or other preadoption services, which must be paid directly to the~~
17 ~~provider of the services;~~
- 18 (2) ~~Legal fees relating to the petition for relinquishment or adoption, that must~~
19 ~~be paid directly to the provider of the services;~~
- 20 (3) ~~Medical expenses relating to prenatal care and the birth of the child, that are~~
21 ~~not already covered by health insurance;~~
- 22 (4) ~~Expenses for transportation, meals, and lodging incurred for placement of~~
23 ~~the child or in order to receive counseling, legal, or medical services related~~
24 ~~to the pregnancy, birth, or placement; and~~
- 25 (5) ~~Living expenses of the birth mother which are needed to maintain an~~
26 ~~adequate standard of living, which the birth mother is unable to otherwise~~
27 ~~maintain because of loss of income or other support resulting from the~~
28 ~~pregnancy.~~
- 29 (a) ~~The payments may cover expenses incurred during the~~
30 ~~pregnancy-related incapacity but not for a period longer than six~~
31 ~~weeks following the delivery, unless the court determines within the~~

1 ~~six-week period that the birth mother is unable to be employed due to~~
2 ~~physical limitations relating to the birth of the child.~~

3 (b) ~~Living expenses do not include expenses for lost wages, gifts,~~
4 ~~educational expenses, vacations, or other similar expenses of a birth~~
5 ~~mother.~~

6 2. A certified copy of the birth certificate or verification of birth record of the individual to
7 be adopted, if available, and the required consents and relinquishments must be filed
8 with the clerk.

9 3. Any individual filing a petition shall pay to the clerk of court a filing fee as prescribed in
10 subsection 1 of section 27-05.2-03.

11 **SECTION 2. AMENDMENT.** Section 14-15-11 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **14-15-11. Notice of petition - Investigation and hearing.**

14 1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place
15 for hearing the petition. At least twenty days before the date of hearing, notice of
16 the filing of the petition and of the time and place of hearing must be given by the
17 petitioner to the department and if the minor to be adopted is in the custody of the
18 human service zone to the human service zone; any agency or individual whose
19 consent to the adoption is required by this chapter but who has not consented; an
20 individual whose consent is dispensed with upon any ground mentioned in
21 subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not
22 consented; any appropriate Indian tribe; and any individual identified by the court
23 as a biological parent or a possible biological parent of the minor, upon making
24 inquiry to the extent necessary and appropriate, as in proceedings under section
25 27-20.3-22, unless the individual has relinquished parental rights or the
26 individual's parental rights have been previously terminated by a court. The
27 notice to the department and if the minor to be adopted is in the custody of the
28 human service zone to the human service zone must be accompanied by a copy
29 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 or by the department when a child-placing agency has a conflict of interest to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether:

a. The proposed adoption is in the best interest of the minor; and

b. The adoptive home is suitable for the minor. The licensed child-placing agency shall obtain and consider the foster care assessment of an applicant who is also a licensed, ~~certified~~, or approved family foster home for children in the manner prescribed by the department. An adoptive home is presumed suitable if, in the manner prescribed by the department, the petitioner is continuously licensed, ~~certified~~, or approved as a family foster home for children under chapter 50-11 to furnish foster care for children ~~for more than one year~~ without a correction order, fiscal sanction, or license revocation proceeding, unless the custodial agency reasonably believes the use of the foster care assessment or the licensed, ~~certified~~, or approved family foster home for children is not 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. A review of the child's history;

b. A preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner;

c. A postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption;

d. The petitioner's foster care assessment to demonstrate the presumed suitability of the adoptive home if a foster care assessment was considered in the investigation under subsection 2 of this section; and

e. Any other information the court requires regarding the petitioner or the minor.

- 1 5. An investigation and report is not required in cases in which a stepparent is the
2 petitioner or the individual to be adopted is an adult. The department and human
3 service zone, when required to consent to the adoption, may give consent without
4 making the investigation. If the petitioner is a court-appointed legal guardian or a
5 relative other than a stepparent of the minor, the minor has lived with the petitioner for
6 at least nine months, no allegations of abuse or neglect have been filed against the
7 petitioner or any member of the petitioner's household, and the court is satisfied that
8 the proposed adoptive home is appropriate for the minor, the court may waive the
9 investigation and report required under this section.
- 10 6. The department and human service zone, when required to consent to the adoption,
11 may request the licensed child-placing agency to conduct further investigation and to
12 make a written report thereof as a supplemental report to the court.
- 13 7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy
14 of the petition and a notice of the time and place of the hearing be given to any
15 individual whose consent to the adoption is required but who has not consented and to
16 each living parent of the adult to be adopted. The court may order an appropriate
17 investigation to assist it in determining whether the adoption is in the best interest of
18 the individuals involved.
- 19 8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil
20 Procedure for the service of process in a civil action in this state or in any manner the
21 court by order directs. Proof of the giving of the notice must be filed with the court
22 before the petition is heard.

23 **SECTION 3. AMENDMENT.** Section 50-12-09 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **50-12-09. Compensation for child placing.**

- 26 1. A child-placing agency in making an adoptive placement may be
27 reimbursed~~compensated~~ by the adoptive couple~~family~~ for the cost of making the
28 adoptive study of the home and the supervision and evaluation of any placement
29 which may be made prior to the legal adoption. No couple may be deprived of
30 receiving a child for adoption on the basis of inability to pay any portion of such
31 expense.reasonable fees.

2. Child-placing agency compensation only may be received for services provided to the adoptive family if reflected in a financial agreement. An itemized receipt of reasonable fees paid by the child-placing agency must be provided to the adoptive family.
3. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption.
4. Reasonable fees may include:
 - a. Facilitation fees charged and completed by the child-placing agency including the cost of preplacement birth parent counseling, adoption home study assessment, placement costs for children not in public custody, utilizing a foster care placement prior to finalization, placement supervision, or other preadoption services offered by the child-placing agency;
 - b. Legal fees relating to the petition for relinquishment or adoption on behalf of the birth parent;
 - c. Medical expenses relating to prenatal care and the birth of the child, which are not already covered by the birth mother's health insurance or other public assistance programs;
 - d. Expenses incurred by the birth parent for transportation, meals, and lodging in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement of the child; and
 - e. Living expenses of the birth mother which are needed to maintain an adequate standard of living, not already covered by public assistance programs.
- (1) The payments may cover expenses incurred during the pregnancy-related incapacity and for up to six weeks following the delivery.
- (2) Living expenses do not include lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.

SECTION 4. AMENDMENT. Section 50-12-10 of the North Dakota Century Code is amended and reenacted as follows:

50-12-10. Revocation of license - Grounds.

The department of health and human services may revoke the license of any child-placing agency upon a proper showing of any of the following:

1. The licensee has violated any ~~requirements~~requirement under this chapter.

- 1 2. The license was issued upon a fraudulent or untrue representations~~representation~~.
- 2 3. The licensee has violated any ~~of the rules and regulations~~rule or regulation of the
- 3 department.
- 4 4. The licensee has ~~been guilty of an offense determined by the department to have a~~
- 5 ~~direct bearing upon a person's ability to serve the public as a licensee, or the~~
- 6 ~~department determines, following conviction of any offense, the person is not~~
- 7 ~~sufficiently rehabilitated under section 12.1-33-02.1~~made a false or misleading report
- 8 to the department.

9 **SECTION 5. AMENDMENT.** Section 50-12-17 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-12-17. Licensure requirement - Registration requirement - Penalty.**

- 12 1. A person may not place or cause to be placed any child in a family home for adoption
- 13 without a license to do so from the department of health and human services ~~except~~
- 14 ~~that a~~.
- 15 2. Adoption services may be provided by the department when a conflict of interest with
- 16 a child-placing agency exists and another child-placing agency is unable to provide the
- 17 service.
- 18 3. A parent, upon giving written notice to the department, may place the parent's child in
- 19 the home of the child's parent, stepparent, grandparent, adult brother or sister, adult
- 20 uncle or aunt, or guardian for adoption by the person receiving the child. The child
- 21 must be considered abandoned if proceedings for the adoption or guardianship of the
- 22 child are not initiated by such relative within one year following the date of notice of
- 23 placement.
- 24 4. A person who willfully violates this chapter is guilty of a class C felony.
- 25 5. For purposes of this section, "~~to~~ place or cause to be placed" means to place:
- 26 a. Place a child for adoption; ~~arrange~~
- 27 b. Arrange or provide for short-term foster care for a child pending an adoptive
- 28 placement; ~~facilitate~~
- 29 c. Facilitate placement of a child by maintaining a list in any form of birth parents or
- 30 prospective adoptive parents; or ~~advertise~~

- 1 d. Advertise in any public medium that the person knows of a child who is available
- 2 for adoption or is willing to accept a child for adoption or that the person knows of
- 3 prospective adoptive parents of a child.

- 4 **SECTION 6. REPEAL.** Sections 50-12-02.1 and 50-12-11 of the North Dakota Century
- 5 Code are repealed.