

PUBLIC WELFARE

CHAPTER 506

HOUSE BILL NO. 1545
(Mertens)

COUNTY POOR RELIEF

AN ACT to create and enact a new section to chapter 50-01 of the North Dakota Century Code, relating to the determination of eligibility for county poor relief, notice of the determination regarding county poor relief eligibility, and appeals from such determination; and to amend and reenact section 50-01-01 of the North Dakota Century Code, relating to eligibility for county poor relief.

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

SECTION 1.) A new section to chapter 50-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

DETERMINATION OF ELIGIBILITY - NOTICE - APPEAL.) The director of the county social service board, or an individual designated by the county social service board, shall be responsible for determining, within a reasonable period of time, an applicant's eligibility for relief under this chapter. Applicants shall be provided written notice of the determination, such notice to include the reasons for such determination, as well as an explanation of the applicant's right to a timely appeal of the determination to the county social service board if aggrieved by the decision. Decisions of the county social service board regarding appeals taken pursuant to this section shall be subject to judicial review in the manner prescribed by chapter 28-32.

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

50-01-01. COUNTY OBLIGATED TO SUPPORT POOR - ELIGIBILITY FOR ASSISTANCE - TRANSFER OF PROPERTY AS SECURITY FOR ASSISTANCE.) Each Within the limits of the county poor relief appropriation therefor, and utilizing reimbursement under section 50-01-09.2, each county in this state is obligated, upon receipt of a written application on a form prescribed by the social service board of North Dakota, to relieve and support persons who are residents of the county and who

are in need of poor relief. To be eligible for such relief, the ~~poor-person~~ applicant:

1. Shall not at any time before or after making application for county poor relief have made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter.
2. Shall comply with the ~~provisions--of--section-50-24-13~~ written eligibility standards for county poor relief established by the county social service board. A copy of the written standards shall be available upon request. Pursuant to this requirement, the ownership of real or personal property by an applicant for county poor relief, or by the spouse of such applicant, either individually or jointly, or of insurance on the life of the applicant shall not preclude the granting of such relief if the applicant is without funds for his support. However, as a condition to the granting of county poor relief, the applicant may be required to transfer such property in trust by appropriate instrument as security for relief the applicant may thereafter 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.

Approved March 15, 1979

CHAPTER 507

HOUSE BILL NO. 1622
(Representatives Mushik, Olson, Stenehjem)
(Senators Christensen, Redlin)

DISPLACED HOMEMAKERS

AN ACT to create and enact chapter 50-06.2 of the North Dakota Century Code, providing counseling, training, jobs, services, and health care for displaced homemakers; and providing a termination date.

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

* SECTION 1.) Chapter 50-06.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-06.2-01. LEGISLATIVE FINDING AND DECLARATION.) The legislative assembly finds that there is an ever-increasing number of persons in this state, who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, or other loss of family income. As a consequence, displaced homemakers are very often without any source of income; they are usually ineligible for categorical welfare assistance; they are subject to one of the highest unemployment rates of any sector of the work force; they face continuing discrimination in employment because they are older and have no recent paid work experience; they are often ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are often ineligible for social security because they are too young, and for many, they will never qualify for social security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for medical assistance and are generally unacceptable to private health insurance plans because of their age.

It is the intention of the legislative assembly in enacting this chapter to provide the necessary counseling, training, jobs, services, and health care for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life and to improve the health and welfare of this ever-growing group of citizens.

* NOTE: This chapter is temporary and is therefore not codified as North Dakota Century Code Chapter 50-06.2.

50-06.2-02. DEFINITIONS.)

1. "Bureau" means the employment security bureau of North Dakota.
2. "Displaced homemaker" means an individual who meets all of the following criteria:
 - a. Is over thirty-five years of age.
 - b. Has worked in the home, providing unpaid services for household members.
 - c. Is not gainfully employed, or is underemployed.
 - d. Has had, or would have, difficulty finding employment.
 - e. (1) Has depended on the income of a family member and has lost that income; or
(2) Has depended on government assistance as the parent of dependent children, but who is not eligible for such assistance.
 - f. Is not eligible for any other assistance programs.
3. "Executive director" means the executive director of the employment security bureau.

50-06.2-03. PILOT MULTIPURPOSE SERVICE CENTER - ESTABLISHMENT - GRANTS - DESIGN AND STAFF.) The executive director may establish a pilot multipurpose service center for displaced homemakers in an urban area, and a mobile unit to serve rural areas. To the greatest extent possible, the executive director shall make grants to nonprofit agencies or organizations to carry out the various programs, as enumerated in sections 50-06.2-05 to 50-06.2-11, inclusive. The service center and mobile unit shall be designed and staffed as follows:

1. The multipurpose service center and mobile unit shall be designed to provide displaced homemakers with the necessary counseling, training, skills, services, and education to become gainfully employed, healthy, and independent.
2. To the greatest extent possible, the staffing of the service center and mobile unit, including supervisory, technical, and administrative positions, shall be by displaced homemakers. Where necessary, potential staff members shall be provided with on-the-job training by independent contractors or volunteer agencies.

50-06.2-04. SOURCES OF FUNDING AND IN-KIND CONTRIBUTIONS.) The executive director shall explore all possible sources of funding

and in-kind contributions from federal, local, and private sources in establishing the service center and mobile unit, including building space, equipment, and qualified personnel for training programs.

50-06.2-05. JOB COUNSELING PROGRAM - DESIGN - EMPHASIS.) The multipurpose service center and mobile unit shall have a job counseling program for displaced homemakers. Job counseling shall be specifically designed for the person reentering the job market after a number of years as a homemaker. The counseling shall take into account and build upon the skills and experiences of a homemaker. Peer counseling and job readiness as well as skill updating and development shall be emphasized.

50-06.2-06. JOB TRAINING PROGRAM - DEVELOPMENT - STIPEND FOR TRAINEES.) The multipurpose service center and mobile unit shall have job training programs for displaced homemakers. The staffs of the center and mobile unit shall contract or enter into cooperative agreements, or both, with the state board for vocational education, other government agencies, and private employers to develop training programs for available jobs in the public and private sectors for the purpose of promoting self-sufficiency. The job training programs shall provide a stipend for trainees.

50-06.2-07. JOB TRAINING PROGRAMS - LAY ADVOCATES - HOME HEALTH TECHNICIANS - HEALTH CARE COUNSELORS.) The service center and mobile unit may include, but not be limited to, the following job training programs:

1. Lay advocates. This program shall be directed toward developing skills in counseling and advising on administrative procedures in government programs such as social security, supplemental security income, welfare, and unemployment, in order that trainees will be trained for employment in social service agencies on a community level, such as senior citizen centers and legal aid offices.
2. Home health technicians. This program shall be directed toward developing skills in nutrition, basic health care, and nursing for the disabled and elderly, in order that trainees will be trained for employment by persons who are homebound through illness or disability and unable to care for themselves and their own households.
3. Health care counselors. This program shall be directed toward developing skills in counseling techniques and in basic health care, especially for middle-aged individuals, in order that trainees will be trained for employment in community and hospital outpatient health clinics.
4. Youth workers. This program shall be directed toward developing skills in working with children and youth in order that trainees will be trained for employment in

community facilities and agencies such as day care centers, public and private schools, special education programs and other educational, social and recreational activities or programs designed to meet the needs and interests of youth.

5. Other nontraditional and traditional jobs.

50-06.2-08. JOB TRAINING PROGRAMS - GOAL.) Each of the job training programs enumerated in section 50-06.2-07 shall have a goal for the first year, training and placing a stated number of displaced homemakers, some of whom could be employed in the service programs specified in section 50-06.2-10. In addition, the service center and mobile unit staffs shall develop, in conjunction with the bureau, plans for including more displaced homemakers in existing job training and placement programs.

50-06.2-09. ASSISTANCE IN FINDING PERMANENT EMPLOYMENT FOR TRAINEE.) Service center and mobile unit staffs shall be responsible for assisting the trainee in finding permanent employment. To this end, the executive director and the service center and mobile unit staffs shall work with the bureau, and the prime sponsors under the Comprehensive Employment and Training Act of 1974 in the area of the center, to secure employment for displaced homemakers.

50-06.2-10. SERVICE PROGRAMS.) The multipurpose service center and mobile unit shall include, but not be limited to, providing and coordinating with other existing service programs, the following service programs for displaced homemakers:

1. A health counseling and referral clinic. Based on principles of preventive health care and consumer health education, each clinic shall be staffed to the greatest extent possible by displaced homemakers. The functions of the clinic shall include:
 - a. Examinations conducted by nurse practitioners. The emphasis of the program shall be on explanation and education about health care and physical well-being.
 - b. Information and referral to physicians and clinics.
 - c. Discussion and activity groups on aging, weight, and nutrition.
 - d. Alcohol and drug addiction programs designed specifically to deal with the social and physical causes of addiction among displaced homemakers.
2. Money management courses, including information and assistance in dealing with insurance programs (life, health, home, and car), taxes, mortgages, loans, and probate problems.

3. Outreach and information for government programs, including concrete information and assistance with supplemental security income, social security, veterans administration benefits, welfare, food stamps, unemployment insurance, and medical assistance.
4. Educational programs, including courses offered for credit through universities or colleges or leading toward a high school equivalency degree. These courses shall be designed to supplement the usual academic course offerings with classes geared toward older persons to improve their self-image and abilities.

50-06.2-11. REGULATIONS - ELIGIBILITY FOR PROGRAMS - LEVEL OF STIPENDS - SLIDING FEE SCALE FOR SERVICE PROGRAMS.) The executive director, in consultation with the directors of the service center and mobile unit, is authorized to adopt rules, within six months from the effective date of this chapter, concerning the eligibility of persons for the job training and other programs of the multipurpose service center and mobile unit, the level of stipends for the job training programs described in sections 50-06.2-06 and 50-06.2-07, a sliding fee scale for the service programs described in section 50-06.2-10, and other matters as the executive director deems necessary. Eligibility for services shall be limited to those persons described in section 50-06.2-02.

50-06.2-12. DELEGATION OF AUTHORITY.) The executive director may delegate any or all of the authority granted him by this chapter to whatever department within the bureau the director deems appropriate.

SECTION 2. DURATION OF CHAPTER - FUNDING.) This Act shall remain in effect until June 30, 1981.

Approved April 3, 1979

CHAPTER 508

SENATE BILL NO. 2158
(Committee on Social Welfare and Veterans Affairs)
(At the request of the Social Service Board)

INVESTIGATION BY COUNTY AGENCY

AN ACT to amend and reenact section 50-09-07 of the North Dakota Century Code, relating to county social service board investigations of applicants for aid to dependent children.

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

SECTION 1. AMENDMENT.) Section 50-09-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-09-07. INVESTIGATION BY COUNTY AGENCY --REPORT-TO-STATE'S ATTORNEY.) Whenever a county agency shall receive an application for assistance, or assistance has been granted, under this chapter, the 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.

Approved March 8, 1979

CHAPTER 509

HOUSE BILL NO. 1186
(Committee on Social Services and Veterans Affairs)
(At the request of the Social Service Board)

SUPPLEMENTAL PARENTAL CARE FOR CHILDREN

AN ACT to amend and reenact sections 50-11.1-01, 50-11.1-02, 50-11.1-04, 50-11.1-05, 50-11.1-06, subsections 1 and 3 of section 50-11.1-07, subsection 2 of section 50-11.1-08, subsection 2 of section 50-11.1-09, and section 50-11.1-11 of the North Dakota Century Code, relating to the regulation of supplemental parental care for children.

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

SECTION 1. AMENDMENT.) Section 50-11.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-01. PURPOSE.) The purpose of this chapter is to assure that children ~~requiring~~ receiving supplemental parental care be provided ~~such~~ such food, shelter, ~~security~~ and safety, ~~guidance~~ and direction, ~~nurture~~ and comfort, supervision, and learning experiences commensurate to their age and capabilities, so as to safeguard the ~~growth~~ health, safety, and development of ~~such~~ those children, ~~thereby~~ facilitating their proper physical and emotional maturation.

SECTION 2. AMENDMENT.) Section 50-11.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-02. DEFINITIONS.) As used in this chapter:

1. "Supplemental parental ~~child~~ care" shall mean the provision of food, shelter, ~~security~~ and safety, ~~guidance~~ and ~~direction~~ nurture and comfort, supervision, and a learning experience commensurate ~~to~~ with a child's age and capabilities, so as to safeguard ~~such~~ the child's growth health, safety, and development on a supplemental basis, ~~either in~~ inside or outside of the child's home by persons other than a parent, guardian, person in loco parentis, or relative, ~~on a regular basis for daily periods of less~~

~~than-twenty-four-hours~~ which is, or is anticipated to be, ongoing for periods of four or more hours per day or for three or more days per week. Supplemental parental care shall not include substitute parental child care provided pursuant to chapter 50-11.

2. "Family day care home" shall mean an occupied private residence in which supplemental parental ~~child~~ care is regularly provided for no more than twelve children from more than one family.
3. "Day care center" shall mean:
 - a. Any facility, other than an occupied private residence, which regularly receives one or more children for supplemental parental ~~child~~ care; or
 - b. Any facility, including an occupied private residence, which regularly provides supplemental parental ~~child~~ care for thirteen or more children.
4. "Child care attendant" shall mean any person who ~~receives public-funds-in-consideration-for-providing~~ provides, for purchase by any agency of state or local government, supplemental ~~child~~ parental care to children from one family in the ~~child's~~ children's home.
5. "Registration" shall mean the process whereby the board maintains a record of all family day care homes and child care attendants, ~~prescribes standards and promulgates regulations under section 50-11-1-08, and requires the operator of a family day care home or child care attendant to certify who have certified that he has~~ they have complied or will comply with the prescribed standards and promulgated regulations.
6. "Registrant" shall mean the holder of a registration certificate issued by the board in accordance with the provisions of this chapter.
7. "Registration certificate" is a written instrument issued by the ~~social service board of North Dakota~~ to publicly document that the certificate holder has ~~in writing~~ certified ~~to the board~~ compliance with this chapter and the applicable regulations and standards ~~for supplemental parental child care established~~ as prescribed by the board.
8. "Board" shall mean the social service board of North Dakota.
9. "Relative" shall mean any person having the following relationship to the child by marriage, blood, or adoption:

grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt.

SECTION 3. AMENDMENT.) Section 50-11.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-04. APPLICATION FOR LICENSE - PREREQUISITES FOR ISSUANCE - LICENSE GRANTED - TERM.) Applications for day care licenses shall be made on forms provided, in the manner prescribed, by the board. The board shall investigate the applicant's activities and proposed standards of care and shall make an inspection of the proposed center. A license for the operation of a center shall be granted by the board ~~to reputable and responsible persons~~ upon a showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care for the health and safety for all children who may be received;
2. The persons in charge of such center and their assistants are properly qualified to carry on efficiently fulfill the duties required of them according to the provisions of this chapter and the rules, regulations, and standards prescribed by the board; and
- ~~3. The center is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all children cared for therein; and~~
- 4- 3. The center will be maintained according to the standards prescribed for its conduct by the rules and regulations of the board.

The license shall be in force and effect for a period of not more than two years.

SECTION 4. AMENDMENT.) Section 50-11.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-05. OPERATION OF FAMILY DAY CARE HOME - REGISTRATION REQUIRED - ISSUANCE OF REGISTRATION CERTIFICATE - TERM.) No person, partnership, firm, corporation, association, or nongovernmental organization intending to provide supplemental parental care shall operate a family day care home without first procuring a family day care registration certificate from the board. The board shall determine whether the standards have been met and shall issue or deny a registration certificate based upon the finding that the registrant has certified in writing that the home is in compliance with the requirements of this chapter and the standards prescribed by the board for the operation of the home that determination.

Family day care registration certificates shall be in force and effect for a period of not more than two years.

SECTION 5. AMENDMENT.) Section 50-11.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-06. CHILD CARE ATTENDANTS - REGISTRATION REQUIRED - ISSUANCE OF REGISTRATION CERTIFICATE - TERM.) Child care attendants, prior to providing in-home supplemental parental child care, shall procure a registration certificate from the board. The board shall ~~issue a registration certificate~~ determine whether the standards have been met and shall issue or deny a registration certificate based upon the finding that the registrant has certified in writing that he is in compliance with the requirements of this chapter and the standards prescribed by the board for child care attendants that determination. Registration certificates for child care attendants shall be in force and effect for not more than two years.

SECTION 6. AMENDMENT.) Subsections 1 and 3 of section 50-11.1-07 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The board and its authorized agents at any time may investigate and inspect the conditions and of the facility, the qualifications of the providers of supplemental parental care in any day care center, or family day care home, ~~or~~ and the qualifications of any child care attendant seeking or holding such a license or registration certificate under the provisions of this chapter. Upon request of the board, the state department of health or the state fire marshal, or his designee, shall inspect any home or facility for which a license or registration certificate is applied for or issued and shall report its findings to the board.
3. All records and information maintained with respect to children receiving supplemental parental child care shall be deemed confidential and be properly safeguarded and shall not be disclosed except:
 - a. In a judicial proceeding;
 - b. To officers of the law or other legally constituted boards or agencies; or
 - c. To persons having a definite interest in the well-being of the child or children concerned and who, in the judgment of the board, are in a position to serve their interests should that be necessary.

SECTION 7. AMENDMENT.) Subsection 2 of section 50-11.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Take such action and make such reasonable rules and regulations for the regulation of supplemental parental ~~child~~ care as may be necessary to carry out the purposes of this chapter and entitle the state to receive aid from the federal government.

SECTION 8. AMENDMENT.) Subsection 2 of section 50-11.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The ~~license~~ licensee or registrant is no longer in compliance with the minimum standards prescribed by the board.

SECTION 9. AMENDMENT.) Section 50-11.1-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-11. ~~USE--OF--PUBLIC--FUNDS~~ PUBLIC AGENCY PURCHASE OF SUPPLEMENTAL PARENTAL CARE.) ~~Public-funds--for--the~~ No agency of state or local government shall purchase of supplemental parental ~~child~~ care, including such care provided by relatives or in the home of a relative, ~~shall-be-used-only-in-licensed~~ unless the day care ~~centers-or~~ center, registered family day care homes home, or child care attendant is licensed, registered or approved by the board. ~~The-provisions-of-this-section--shall--not--apply--to--any--home--or--institution-under-the-management-and-control-of-the-state-~~

Approved March 3, 1979

CHAPTER 510

HOUSE BILL NO. 1077
(Legislative Council)
(Interim Committee on Social Services)

BOARDING HOMES FOR THE AGED AND INFIRM

AN ACT to create and enact two new sections to chapter 50-18 of the North Dakota Century Code, relating to cooperation between the state laboratories department and the state social service board in determining licensing responsibility and actions against operations without a license; and to amend and reenact section 50-18-01 of the North Dakota Century Code, relating to the definition of boarding home for the aged and infirm.

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

SECTION 1.) A new section to chapter 50-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

COOPERATION BETWEEN STATE LABORATORIES DEPARTMENT AND SOCIAL SERVICE BOARD - RESPONSIBILITY FOR LICENSING - JOINT INSPECTION.)
When, in the opinion of the state laboratories department director, an establishment licensed as a hotel, lodginghouse, or boardinghouse under chapter 23-09 is exceeding the authority or responsibility it has under chapter 23-09, the state laboratories department director shall cause a written notice to be sent to the board. The notice shall give the name and address of the establishment, the name of the owner or manager, and shall clearly state specific reasons why the establishment is believed to be in violation of chapter 23-09. Upon receipt of the notice the board shall arrange for a joint inspection of the establishment with the intention of determining which agency is responsible for licensing the establishment.

When any place licensed under this chapter changes its operation to that of a hotel, lodginghouse, or boardinghouse, the board shall notify the state laboratories department in the manner required above and the state laboratories department shall arrange for a joint inspection of the facility.

After a joint inspection, the responsible licensing agency shall be identified and shall conduct subsequent investigations.

SECTION 2.) A new section to chapter 50-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

INJUNCTION.) The board, in accordance with the laws of this state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, or corporation for establishing, conducting, managing, or operating any home without first having a license under this chapter.

SECTION 3. AMENDMENT.) Section 50-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-18-01. "BOARDING HOME FOR THE AGED AND INFIRM" DEFINED.) As used in this chapter, the term "boarding home for the aged and infirm" ~~shall--mean~~ means any place, not licensed by the state department of health, operated by any person, institution, organization, or private or public corporation, in which three or more adults who are aged or infirm and not related by blood or marriage to the owner or manager of ~~said~~ the place, are received, kept, and provided with food, shelter, and care for hire or compensation. Care for hire or compensation includes routine maintenance and supportive care which need not be provided in an institutional setting by trained and skilled medical personnel, can be administered without any possible harm to the health of the aged or infirm individual in care, and has no significant relationship to medical care of any type. Any place which assists its residents with walking, dressing, or toilet usage, or which promotes supervision of person, or which employs any staff to aid residents in addition to cooks or maids for cleaning, is considered to be a home subject to regulation by the social service board of North Dakota.

Approved March 3, 1979

CHAPTER 511

HOUSE BILL NO. 1576
(Mertens)

NONGERIATRIC PATIENT RULES

AN ACT to require the social service board and the state department of health to adopt rules which would ensure nongeriatric patients and residents the full benefits of care and the screening process for appropriate medical, social, and psychological services, and to permit nursing homes, intermediate care facilities, and boarding homes for the aged and infirm to establish residential areas specifically for the inhabitation of nongeriatric patients.

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

SECTION 1. RULES - NONGERIATRIC PERSONS.) The social service board, under chapter 50-18, and the state department of health, under chapter 23-16, shall adopt rules for patient and resident care and quality care review which are not in conflict with any federal laws, as are necessary to ensure the appropriate medical, social, and psychological services to nongeriatric persons residing in a nursing home, intermediate care facility, boarding home for the aged and infirm, or any combination of a nursing home, intermediate care facility, or boarding home for the aged and infirm.

SECTION 2. RESIDENTIAL AREAS - NONGERIATRIC PATIENTS.) A nursing home, intermediate care facility, boarding home for the aged and infirm, or any combination of a nursing home, intermediate care facility, or boarding home for the aged and infirm may establish residential areas specifically for inhabitation by nongeriatric patients subject to any reasonable rules adopted by the social service board or the state department of health.

Approved March 19, 1979

CHAPTER 512

SENATE BILL NO. 2344
(Reiten)

RECOVERY FROM RECIPIENT'S ESTATE

AN ACT to amend and reenact sections 50-24-33 and 50-24.1-07 of the North Dakota Century Code, relating to recovery from estates of recipients of assistance to the aged, blind, or disabled.

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

* SECTION 1. AMENDMENT.) Section 50-24-33 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-33. RECOVERY FROM ESTATE OF RECIPIENT OF ASSISTANCE TO THE AGED, BLIND, OR DISABLED.) On the death of any recipient of assistance to the aged, blind, or disabled under the provisions of this chapter, the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state pursuant to subdivision e of subsection 1 of section 30.1-19-05 except that such "reasonable funeral expenses" shall not exceed the sum of ~~nine~~ twelve hundred dollars and except that claims on behalf of the Jamestown state hospital shall have priority over any claims of the state filed under the authority of this section. No claim shall be enforced against any of the following:

1. Real estate of a recipient for the support, maintenance, or comfort of the surviving spouse or a dependent.
2. Personal property necessary for the support, maintenance, or comfort of the surviving spouse or a dependent.
3. Any real or personal property of a recipient which is held in trust for him by the federal government.

SECTION 2. AMENDMENT.) Section 50-24.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Chapter 50-24 was repealed by section 1 of House Bill No. 1695, chapter 513.

50-24.1-07. RECOVERY FROM ESTATE OF MEDICAL ASSISTANCE RECIPIENT.) On the death of any recipient of medical assistance who was sixty-five years of age or older when he received such assistance, the total amount of medical assistance paid on behalf of the decedent following his sixty-fifth birthday shall be allowed as a preferred claim against the decedent's estate after funeral expenses not in excess of ~~nine~~ twelve hundred dollars, expenses of last illness, and expenses of administering the estate, including attorney's fees approved by the court, and claims on behalf of the state hospital have been paid. No claim shall be allowed 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.

Approved March 23, 1979

CHAPTER 513

HOUSE BILL NO. 1695

(Stenehjem)

(Approved by Committee on Delayed Bills)

AGED, BLIND, OR DISABLED AID PROGRAM REPEALED

AN ACT to repeal chapter 50-24 of the North Dakota Century Code, relating to aid to aged, blind, or disabled program, but continuing certain provisions in effect.

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

* SECTION 1. REPEAL.) Chapter 50-24 of the North Dakota Century Code is hereby repealed.

SECTION 2.) Rights existing and vested or instruments executed under sections 50-24-13, 50-24-15, 50-24-30, 50-24-33, 50-24-34, and 50-24-38 prior to July 1, 1979, shall continue to be effective until their expiration according to their own terms or by force of law.

Approved April 3, 1979

* NOTE: Section 50-24-33 was amended by section 1 of Senate Bill No. 2344, chapter 512.

CHAPTER 514

HOUSE BILL NO. 1240
(Committee on Social Services and Veterans Affairs)
(At the request of the Social Service Board)

CHILD ABUSE AND NEGLECT

AN ACT to create and enact four new sections to chapter 50-25.1 of the North Dakota Century Code, relating to the reporting of child abuse and neglect; and to amend and reenact sections 50-25.1-02, subsection 1 of section 50-25.1-03, 50-25.1-04, 50-25.1-05, and subsection 3 of section 50-25.1-11 of the North Dakota Century Code, relating to the reporting of child abuse and neglect.

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

SECTION 1.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

STATE CHILD PROTECTION TEAM - HOW CREATED - DUTIES.) The director of the division shall name the members of the state child protection team. The members shall be appointed for three-year staggered terms. The member who represents the division shall serve as chairperson and shall be responsible for the transmittal of all team reports made pursuant to this chapter. The chairperson shall set meetings for the purposes of fulfilling the duties set forth in sections 2, 5, and 7 of this Act. Under procedures adopted by the team, it may meet at any time, confer with any individuals, groups and agencies, and may issue reports or recommendations on any aspect of child abuse or neglect it deems appropriate.

SECTION 2.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

DETERMINATION OF PROBABLE CAUSE.) Upon completion of the investigation of the initial report of child abuse or neglect, a determination shall be made that there does or does not exist probable cause to believe that child abuse or neglect is indicated.

1. This determination shall be the responsibility of:

- a. The state child protection team in all cases of alleged institutional child abuse or neglect; and
 - b. In all other cases of alleged abuse or neglect, by the director of the division or his designee.
2. Probable cause to believe that child abuse or neglect is indicated may not be determined where 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 shall not preclude a court from ordering that medical services be provided to the child where his life or safety requires it.

SECTION 3.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

REPORT TO THE COURT.)

1. The state child protection team, upon a determination that institutional child abuse or neglect is indicated, shall promptly make written report to the juvenile court having jurisdiction in the matter. When the subject of the report is a state-operated institution, the state child protection team shall promptly notify the governor that such report has been made to the juvenile court.
2. In all other cases, upon a determination that probable cause exists to believe that child abuse or neglect is indicated, the director of the division or his designee shall promptly make written report to the juvenile court having jurisdiction in the matter.

SECTION 4.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

PHOTOGRAPHS AND X-RAYS.) Any person or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who is the subject of a report and, if indicated by medical consultation, cause to be performed a radiological examination of the child without the consent of the child's parents or guardian. All photographs taken pursuant to this section shall be taken by law enforcement officials upon the request of any person or official required to report under this chapter. All photographs and x-rays taken, or copies of them, shall be sent to the division at the time the initial report of child abuse or neglect is made or as soon thereafter as possible.

SECTION 5. AMENDMENT.) Section 50-25.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-02. DEFINITIONS.)

1. "Abused child" means an individual under the age of eighteen years who is suffering from serious physical harm or traumatic abuse caused by other than accidental means by a person responsible for the child's health or welfare.
2. "Neglected child" means a deprived child as defined in chapter 27-20.
3. "Division" means the division of community services of the social service board of North Dakota.
4. "Harm" means negative changes in a child's health which occur when the parent or other person responsible for his health:
 - a. Inflicts or allows to be inflicted, upon the child, physical or mental injury, including injuries sustained as a result of excessive corporal punishment; or
 - b. Commits, allows to be committed or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20.
5. "A person responsible for a child's welfare" means the child's parents, guardian, foster parent, an employee of a public or private school or nonresidential child care facility, an employee of a public or private residential home, institution, or agency, or other person responsible for the child's welfare in a residential setting.
6. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is an employee of: a residential child care facility, a treatment or care center for mentally retarded, 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.
7. "State child protection team" means a multi-disciplinary team consisting of the designee of the director of the division 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 office of the attorney general, a representative of the department of public instruction, a representative of the director of institutions, 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,

shall be staff members of the public or private agency which they represent, or shall serve without remuneration. In no event shall an attorney member of the child protection team be appointed to represent the child or the parents at any subsequent court proceeding nor shall the child protection team be composed of fewer than three persons.

SECTION 6. AMENDMENT.) Subsection 1 of section 50-25.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, social worker, day care center or any other child care worker, police or law enforcement officer having knowledge of or reasonable cause to suspect that a child coming before him in his official or professional capacity is abused or neglected shall report the circumstances to the division.

SECTION 7. AMENDMENT.) Section 50-25.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-04. METHOD OF REPORTING.) All persons mandated or permitted to report cases of known or suspected child abuse or neglect shall immediately cause oral or written reports to be made to the division. Oral reports shall be followed by written reports within forty-eight hours if so requested by the director of the division or his designee. Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made under this chapter.

SECTION 8. AMENDMENT.) Section 50-25.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-05. INVESTIGATION AND--REPORT--TO--THE--COURT.) The director of the division shall forthwith investigate, or cause to be investigated, any initial report of child abuse or neglect made directly to him, including the home or the residence of the child, and the circumstances surrounding the reported report of abuse or neglect, and, upon a finding of abuse or neglect, shall promptly make written report to the juvenile court having jurisdiction of the matter.

SECTION 9. AMENDMENT.) Subsection 3 of section 50-25.1-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Authorized staff of the division and, appropriate county social service boards, and appropriate state and local child protection team members;

Approved March 3, 1979