

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2334

Introduced by

Senators J. Lee, Anderson

Representatives Delmore, Hofstad, Weisz

1 A BILL for an Act to create and enact sections 25-17-02.1 and 25-17-07 of the North Dakota  
2 Century Code, relating to the state's newborn screening program; to amend and reenact  
3 sections 23-01-03.1, 25-17-00.1, 25-17-01, 25-17-03, 25-17-05, and 25-17-06 of the North  
4 Dakota Century Code, relating to the state's newborn screening program; and to repeal section  
5 25-17-04 of the North Dakota Century Code, relating to the state's newborn screening program.

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

7 **SECTION 1. AMENDMENT.** Section 23-01-03.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **23-01-03.1. Newborn metabolic and genetic disease screening tests.**

10 1. The health council may authorize the use of newborn metabolic and genetic disease  
11 screening tests, as provided for in chapter 25-17, for research purposes. The council  
12 shall adopt rules to ensure that the results are used for legitimate research purposes  
13 and to ensure that the confidentiality of the newborns and their families is  
14 protected. shall adopt rules relating to the storage, maintenance, and disposal of blood  
15 spots or other newborn screening specimens.

16 2. The health council shall specify a panel of metabolic diseases and genetic diseases  
17 for which newborn screening must be performed. The screening panel must include  
18 disorders and diseases selected by the state health officer with input from an advisory  
19 committee that is approved by the health council.

20 **SECTION 2. AMENDMENT.** Section 25-17-00.1 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **25-17-00.1. Definitions.**

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

- 1       1.   "Confirmatory-diagnostic testing" means testing to prove or disprove the presence of a  
2           specific metabolic disease or genetic disease.
- 3       2.   "Confirmatory-diagnostic testing laboratory" means a laboratory performing  
4           confirmatory-diagnostic testing.
- 5       3.   "Department" means the state department of health.
- 6       4.   "Licensed clinician" means a currently licensed physician, physician assistant, or  
7           advanced practice registered nurse.
- 8       5.   "Low-protein modified food product" means a food product that is specially formulated  
9           to have less than one gram of protein per serving and is intended to be used under the  
10          direction of a ~~physician~~licensed clinician for the dietary treatment of a metabolic  
11          disease. The term does not include a natural food that is naturally low in protein.
- 12      ~~2.6.~~ "Medical food" means a food that is intended for the dietary treatment of a disease or  
13          condition for which nutritional requirements are established by medical evaluation and  
14          is formulated to be consumed or administered under the direction of a  
15          ~~physician~~licensed clinician.
- 16      ~~3.7.~~ "Metabolic disease" and "genetic disease" mean a disease as designated by rule of  
17          the state health council for which early identification and timely intervention will lead to  
18          a significant reduction in mortality, morbidity, and associated disabilities.
- 19      8.   "Newborn screening program" means a program facilitating access to appropriate  
20           testing, followup, diagnosis, intervention, management, evaluation, and education  
21           regarding metabolic diseases and genetic diseases identified in newborns.
- 22      9.   "Out-of-range screening result" means a screening result that is outside of the  
23           expected range of testing results established for a particular disease.
- 24      10.  "Responsible clinician" means the licensed clinician, midwife, naturopath, or birth  
25           attendant attending a newborn.
- 26      11.  "Screening" means initial testing of a newborn for the possible presence of metabolic  
27           disease or genetic disease.
- 28      12.  "Screening laboratory" means the laboratory the department selects to perform  
29           screening.

30       **SECTION 3. AMENDMENT.** Section 25-17-01 of the North Dakota Century Code is  
31       amended and reenacted as follows:

1       **25-17-01. Newborn screening education programs and tests.**

2       The state department of health shall:

- 3       1.    Develop and implement a metabolic disease and genetic disease educational program  
4           among ~~physicians~~licensed clinicians, hospital staffs, public health nurses, and the  
5           citizens of this state. This educational program must include information about the  
6           nature of the diseases and about screening for the early detection of these diseases  
7           so that proper measures may be taken to reduce mortality, morbidity, and associated  
8           disabilities.
- 9       2.    Provide, on a statewide basis, a newborn screening ~~system and short-term followup-~~  
10           ~~services for metabolic and genetic diseases~~program.
- 11      3.    Coordinate with or refer individuals to public and private health care service providers  
12           for long-term followup services for metabolic diseases ~~or~~and genetic diseases, ~~or both~~.
- 13      4.    Select a screening laboratory.
- 14      5.    Store, maintain, and dispose of blood spots used for screening.

15       **SECTION 4.** Section 25-17-02.1 of the North Dakota Century Code is created and enacted  
16 as follows:

17       **25-17-02.1. Testing and reporting requirements.**

- 18      1.    A responsible clinician shall provide the parents and guardians of a newborn written  
19           information on the nature of newborn screening and confirmatory-diagnostic testing.  
20           The parents or guardians of a newborn may object to screening after receiving the  
21           written information. A newborn may not be subject to screening to which the newborn's  
22           parents or guardians object. In the case of an objection, the responsible clinician shall  
23           record the objection in a document signed by the parents or guardians and shall  
24           submit the document to the department.
- 25      2.    The responsible clinician attending a newborn shall cause that newborn to be  
26           subjected to screening in the manner prescribed by the department.
- 27      3.    The screening laboratory shall provide to the department screening results and any  
28           blood spots used in screening.
- 29      4.    If screening shows an out-of-range screening result, the responsible clinician shall  
30           cause the newborn to be subjected to appropriate clinical followup by a licensed

- 1            clinician which may include confirmatory-diagnostic testing. The responsible clinician  
2            shall ensure the department receives any confirmatory-diagnostic testing results.  
3            5. A licensed clinician attending a patient with a metabolic disease or genetic disease  
4            that was not detected by the state's newborn screening program shall report the case  
5            to the department.

6            **SECTION 5. AMENDMENT.** Section 25-17-03 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8            **25-17-03. Treatment for positive diagnosis - Registry of cases.**

9            The state department of health shall:

- 10           1. ~~Follow up with attending physicians~~Notify responsible clinicians regarding cases with  
11           ~~positive tests for metabolic diseases or genetic diseases, or both,~~out-of-range  
12           ~~screening results or positive confirmatory-diagnostic testing results~~ in order to  
13           ~~determine the exact diagnosis~~facilitate access to appropriate treatment. If the  
14           ~~responsible clinician is not a licensed clinician, the responsible clinician shall refer the~~  
15           ~~patient to a licensed clinician for appropriate followup care.~~  
16           2. Refer every diagnosed case of a metabolic disease or genetic disease, ~~or both,~~ to a  
17           ~~qualified health care provider~~licensed clinician for necessary treatment.  
18           3. Maintain a registry of cases of metabolic diseases and genetic diseases.  
19           4. Provide medical food at no cost to males under age twenty-two and females under  
20           age forty-five who are diagnosed with phenylketonuria or maple syrup urine disease,  
21           regardless of income. If treatment services under this subsection are provided to an  
22           individual by the department, the department may seek reimbursement from any  
23           government program that provides coverage to that individual for the treatment  
24           services provided by the department.  
25           5. Offer for sale at cost medical food to females age forty-five and over and to males age  
26           twenty-two and over who are diagnosed with phenylketonuria or maple syrup urine  
27           disease, regardless of income. These individuals are responsible for payment to the  
28           department for the cost of medical food.  
29           6. Provide low-protein modified food products, if medically necessary as determined by a  
30           qualified health care provider, to females under age forty-five and males under age

1           twenty-two who are receiving medical assistance and are diagnosed with  
2           phenylketonuria or maple syrup urine disease.

3           **SECTION 6. AMENDMENT.** Section 25-17-05 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **25-17-05. Testing charges.**

6           ~~The state health council may adopt rules that establish reasonable fees and may impose~~  
7 ~~those fees to cover the costs of administering tests under this chapter. All test fees collected by~~  
8 ~~the state department of health must be deposited in the state department of health operating~~  
9 ~~account.~~ A screening and confirmatory-diagnostic testing laboratory may charge fees for  
10 necessary services.

11          **SECTION 7. AMENDMENT.** Section 25-17-06 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13          **25-17-06. Pulse oximetry screening for critical congenital heart defects - Exception.**

14          Before discharge of a newborn child born in a hospital with a birthing center, the newborn  
15 child must receive a pulse oximetry screening for critical congenital heart defects. The  
16 screening requirement of this section does not apply if the parents or guardians of a newborn  
17 child object to the screening. The state department of health shall provide medical staff and  
18 facilities that provide birthing services with notice regarding this screening requirement. For  
19 purposes of this chapter, pulse oximetry screening is not a test under section 25-17-05 and a  
20 congenital heart defect detected by screening under this section is not a metabolic disease or  
21 genetic disease as those terms are used under this chapter.

22          **SECTION 8.** Section 25-17-07 of the North Dakota Century Code is created and enacted as  
23 follows:

24          **25-17-07. Institutional review board.**

25          A person that conducts research on blood spots, other specimens, or registry data that is  
26 maintained by the department shall follow institutional review board processes for human  
27 research which must include obtaining parent or guardian authorization.

28          **SECTION 9. REPEAL.** Section 25-17-04 of the North Dakota Century Code is repealed.