

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2043

Introduced by

Senators Kreun, G. Lee, Poolman, Hogue

Representatives Beadle, O'Brien

1 A BILL for an Act to amend and reenact subsection 1 of section 50-11.1-04, section
2 50-11.1-07.8, subsection 1 of section 50-11.1-17, and subsection 2 of section 50-25.1-11 of the
3 North Dakota Century Code, relating to regulation of early childhood services and claims of
4 child abuse and neglect.

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

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

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

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

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

1 **50-11.1-07.8. Suspension of license, self-declaration, or registration document -**
2 **~~Investigation~~Assessment upon a report of child abuse or neglect - Notification to parent.**

- 3 1. The department may:
- 4 a. Suspend a license, self-declaration, or registration document at any time after the
5 onset of a child abuse and neglect ~~investigation~~assessment alleging the owner or
6 operator, the holder of a self-declaration, or the in-home provider ~~has committed~~;
7 (1) Committed child abuse, including child sexual abuse, ~~or has neglected a~~
8 ~~child and~~ law enforcement has been involved, ~~if and~~ continued operation is
9 likely to jeopardize the health and safety of the children; or
10 (2) Neglected a child, law enforcement has been involved, and continued
11 operation is likely to jeopardize the health and safety of the children.
- 12 b. Suspend a license, self-declaration, or registration document upon a child abuse
13 or neglect services required determination indicating ~~that~~ a child has been
14 abused or neglected by the owner or operator, the holder of a self-declaration, or
15 the in-home provider, if continued operation is likely to jeopardize the health and
16 safety of the children present.
- 17 c. Prohibit the presence of an accused owner, operator, holder of a self-declaration,
18 in-home provider, staff member, or adult or minor household member of the early
19 childhood program, self-declaration, or in-home provider from the early childhood
20 premises when children are in child care, upon a report of child abuse or neglect
21 at the premises of the ~~licensed~~early childhood program, holder of the
22 self-declaration, or registration, or involving a staff member or adult or minor
23 household member if continued operation or the presence of the accused
24 individual is likely to jeopardize the health and safety of the children present.
- 25 2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
- 26 a. Shall notify the parent of any child receiving early childhood services ~~when~~if that
27 program's license, self-declaration, or registration document is suspended.
- 28 b. Shall notify the owner, operator, holder of a self-declaration, or in-home provider
29 and shall notify the parent of any child receiving early childhood services ~~when~~if
30 an owner, operator, holder of a self-declaration, in-home provider, ~~adult~~ staff
31 member, or adult or minor household member of the program providing care of

1 the child is ~~under investigation under subsection 1~~ the subject of a child abuse
2 and neglect assessment and the department determines:

3 (1) The reported child abuse or neglect places children in the early childhood
4 program, self-declaration, or in-home provider at risk of abuse or neglect;
5 and

6 (2) If the reported child abuse or neglect occurred outside the care, supervision,
7 or guidance of children in an early childhood program, self-declaration, or
8 in-home provider, there was an impact or is a potential impact on care,
9 supervision, or guidance of the children in the early childhood program, self-
10 declaration, or in-home provider.

11 c. Shall notify the owner, operator, holder of a self-declaration, or in-home provider
12 and shall notify the parent of any child receiving early childhood services that a-
13 an owner, operator, holder of a self-declaration, in-home provider, staff member,
14 or adult or minor household member is under investigation ~~prohibited from the~~
15 premises of the early childhood program, self-declaration, or in-home provider
16 under subsection 1 if the staff member or household member is a minor.

17 3. Upon the conclusion and disposition of ~~the investigation~~ a child abuse and neglect
18 assessment for which a determination services are required is found or for which the
19 department issued a notice under subsection 2, the department shall notify ~~provide~~
20 notification of the disposition to the parent of each child who at the time of the
21 determination is receiving early childhood services of the disposition.

22 4. Notwithstanding any provision to the contrary, any action taken under this section may
23 preclude an individual's ability to operate pending an appeal.

24 5. Notwithstanding subsections 2 and 3:

25 a. The department may reconsider a suspension or prohibition.

26 b. If law enforcement requests a delay in notification, the department may delay
27 notifying the owner, operator, holder of a self-declaration, or in-home provider
28 and delay notifying the parent of any child receiving early childhood services. To
29 be valid, a law enforcement request for a notification delay must be provided to
30 the department in writing within forty-eight hours of law enforcement receiving

1 notification of an alleged criminal matter. A notification delay may last up to sixty
2 days and, upon request of law enforcement, may be renewed.

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

5 1. Applications for self-declarations must be made on forms provided and in the manner
6 prescribed by the department. The department or the department's authorized agent
7 shall investigate the applicant and every individual living in the private residence and
8 shall conduct a background check. The department or the department's authorized
9 agent shall conduct the investigation in accordance with the rules adopted by the
10 department and shall determine whether any of them has a criminal record or has had
11 a finding of services required for child abuse or neglect filed against them. Except as
12 otherwise provided, the department shall approve a self-declaration within thirty days
13 of receipt of a completed application and all supporting documents by the department
14 and upon the applicant's declaration:

15 a. The premises to be used are in fit and sanitary condition to provide for the health
16 and safety of all children and are maintained according to the standards
17 prescribed by the rules of the department;

18 b. The applicant is able to provide for the health and safety of each child receiving
19 early childhood services from the applicant according to this chapter and
20 standards prescribed by the department as set forth in ~~its~~the rules of the
21 department;

22 c. The applicant has not had a previous license or self-declaration denied or
23 revoked within the twelve months before the date of the current application;

24 d. The applicant has not had three or more previous licenses or self-declarations
25 denied or revoked. The most recent revocation or denial may not have occurred
26 within five years of the application date;

27 e. The applicant has paid the required application fees;

28 f. The applicant has paid any penalties and sanctions assessed against the
29 program required by sections 50-11.1-03 and 50-11.1-07.4;

30 g. The applicant is currently certified in infant and pediatric cardiopulmonary
31 resuscitation and ~~the use of an automated external defibrillator~~ by the American

1 heart association, the American red cross, or a similar cardiopulmonary
2 resuscitation and ~~automated external defibrillator~~ training program approved by
3 the department;

4 h. The emergency designee used by the applicant, if any, is currently certified in
5 infant and pediatric cardiopulmonary resuscitation and ~~the use of an automated~~
6 ~~external defibrillator~~ by the American heart association, the American red cross,
7 or a similar cardiopulmonary resuscitation and ~~automated external defibrillator~~
8 training program approved by the department;

9 i. The applicant is currently certified in first aid through a training program approved
10 by the department; and

11 j. The application and supporting documents do not include any fraudulent or
12 untrue representations.

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

15 2. ~~The~~In accordance with subsection 3 of section 50-11.1-07.8, the department shall
16 notify the owner, operator, holder of a self-declaration, or in-home provider and shall
17 notify the parent or legally appointed guardian of a child, who at the time of notification
18 is receiving early childhood services under chapter 50-11.1₂ of the name of the subject
19 and provide a summary of the facts and the results of an assessment conducted under
20 this chapter if the report made under this chapter involves the owner, operator, holder
21 of a self-declaration, or in-home provider; or involves an adult or minor staff member,
22 or adult or minor household member of the early childhood program, ~~the holder of a~~
23 ~~self-declaration or a household member of the holder of a self-declaration, or the~~
24 ~~in-home provider or a household member of the in-home provider, who is providing~~
25 care to the child.