

SENATE BILL NO. 2335

Introduced by

Senators K. Roers, Dever, Lee

Representatives Beltz, Nelson

1 A BILL for an Act to create and enact a new section to chapter 1-03, a new section to chapter
2 50-06, and section 50-11-01.7 of the North Dakota Century Code, relating to training and
3 screening for fetal alcohol spectrum disorder ~~and~~, creating a ~~fetal alcohol spectrum disorder~~
4 ~~council~~ cross-disability advisory council, and establishing an annual day of awareness for fetal
5 alcohol spectrum disorder; and to amend and reenact ~~section 15.1-32-01~~, subsection 3 of
6 section 25-01.2-01, ~~and section 27-20.3-04~~ of the North Dakota Century Code, relating to fetal
7 alcohol spectrum disorder; ~~and to provide a report.~~

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

9 ~~SECTION 1. AMENDMENT. Section 15.1-32-01 of the North Dakota Century Code is~~
10 ~~amended and reenacted as follows:~~

11 ~~15.1-32-01. Definitions.~~

12 ~~As used in this chapter:~~

13 ~~1. "Related services" means transportation and developmental and corrective or~~
14 ~~supportive services required to assist a student with disabilities to benefit from special~~
15 ~~education.~~

16 ~~2. "Special education" means instruction designed to meet the needs of a student with~~
17 ~~disabilities, transportation, and corrective and supporting services required to assist a~~
18 ~~student with disabilities in taking advantage of, or responding to, educational programs~~
19 ~~and opportunities.~~

20 ~~3. "Student who is gifted" means an individual who is identified by qualified professionals~~
21 ~~as being capable of high performance and who needs educational programs and~~
22 ~~services beyond those normally provided in a regular education program.~~

23 ~~4. a. "Student with a disability" means an individual who is at least three years of age~~
24 ~~but who has not reached the age of twenty-one before August first of the year in~~

1 ~~which the individual turns twenty-one and who requires special education and~~
2 ~~related services because of:~~
3 ~~(1) An intellectual disability;~~
4 ~~(2) A hearing impairment, including deafness;~~
5 ~~(3) Deaf-blindness;~~
6 ~~(4) A speech or language impairment;~~
7 ~~(5) A visual impairment, including blindness;~~
8 ~~(6) An emotional disturbance;~~
9 ~~(7) An orthopedic impairment;~~
10 ~~(8) Fetal alcohol spectrum disorder;~~
11 ~~(9) Autism;~~
12 ~~(9)(10) A traumatic brain injury;~~
13 ~~(10)(11) Other health impairment; or~~
14 ~~(11)(12) A specific learning disability.~~
15 ~~b. "Student with a disability" includes a student age eighteen through twenty-one~~
16 ~~who is incarcerated in an adult correctional facility and who, in the last~~
17 ~~educational placement prior to incarceration, was identified as being a student~~
18 ~~with a disability and did not have an individualized education program or was~~
19 ~~identified as being a student with a disability and had an individualized education~~
20 ~~program.~~

21 **SECTION 1.** A new section to chapter 1-03 of the North Dakota Century Code is created
22 and enacted as follows:
23 **Fetal alcohol spectrum disorder awareness day.**
24 To celebrate the life of all affected by fetal alcohol spectrum disorder, reaffirm the dignity
25 and value of every human being, and to create awareness of the number of people affected by
26 the disorder, the ninth day of September of each year is designated and established as fetal
27 alcohol spectrum disorder awareness day for the state of North Dakota.

28 **SECTION 2. AMENDMENT.** Subsection 3 of section 25-01.2-01 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 3. "Developmental disability" means a severe, chronic disability of an individual which:

- 1 a. Is attributable to a mental or physical impairment or combination of mental and
2 physical impairments, including Down syndrome and fetal alcohol spectrum
3 disorders, including fetal alcohol syndrome, partial fetal alcohol syndrome, and
4 alcohol-related neurodevelopmental disorder;
5 b. Is manifested before the individual attains age twenty-two;
6 c. Is likely to continue indefinitely;
7 d. Results in substantial functional limitations in three or more of the following areas
8 of major life activity:
9 (1) Self-care;
10 (2) Receptive and expressive language;
11 (3) Learning;
12 (4) Mobility;
13 (5) Self-direction;
14 (6) Capacity for independent living; and
15 (7) Economic sufficiency; and
16 e. Reflects the individual's needs for a combination and sequence of special,
17 interdisciplinary, or generic care, treatment, or other services which are of lifelong
18 or extended duration and are individually planned and coordinated.

19 ~~— **SECTION 3. AMENDMENT.** Section 27-20.3-04 of the North Dakota Century Code is~~
20 ~~amended and reenacted as follows:~~

21 ~~— **27-20.3-04. Powers and duties of director of juvenile court.**~~

22 ~~— 1. For the purpose of carrying out the objectives and purposes of this chapter and~~
23 ~~subject to the limitations of this chapter or imposed by the court, a director shall:~~

24 ~~— a. Make investigations, reports, and recommendations to the juvenile court.~~

25 ~~— b. Receive and examine referrals of a child in need of services or child in need of~~
26 ~~protection for the purpose of considering diversion of services.~~

27 ~~— c. Make a determination upon intake of referrals regarding the appropriate manner~~
28 ~~to handle delinquent conduct, a child in need of services, or a child in need of~~
29 ~~protection under this chapter.~~

30 ~~— d. Assess or screen each child in need of services or child in need of protection for~~
31 ~~fetal alcohol spectrum disorder.~~

- 1 ~~_____ e. Make appropriate referrals to other private or public agencies of the community if~~
2 ~~their assistance appears to be needed or desirable.~~
- 3 ~~_____ e.f. Issue a temporary custody order concerning a child who is referred to the~~
4 ~~director's supervision or care as a child in need of services or a child in need of~~
5 ~~protection. Except as provided by this chapter, a director does not have the~~
6 ~~powers of a law enforcement officer.~~
- 7 ~~_____ f.g. Take acknowledgments of instruments for the purpose of this chapter.~~
- 8 ~~_____ g.h. Make such temporary order not to exceed ninety-six hours for the custody and~~
9 ~~control of a child alleged to be in need of services or protection as may be~~
10 ~~deemed appropriate. The order must be reduced to writing within twenty-four~~
11 ~~hours, excluding holidays and weekends.~~
- 12 ~~_____ h.i. Perform all other functions designated by this chapter or under section 27-05-30~~
13 ~~or by order of the court, including, if qualified, those of a referee.~~
- 14 ~~_____ i.j. Issue an order to a law enforcement authority to transport a child to and from a~~
15 ~~specified location.~~
- 16 ~~_____ j.k. Receive and examine requests for review of a child's placement at a qualified~~
17 ~~residential treatment program under the Family First Prevention Services Act~~
18 ~~[Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].~~
- 19 ~~_____ 2. Any of the foregoing functions may be performed in another state if authorized by the~~
20 ~~court of this state and permitted by the laws of the other state.~~
- 21 ~~_____ **SECTION 4.** A new section to chapter 50-06 of the North Dakota Century Code is created~~
22 ~~and enacted as follows:~~
- 23 ~~_____ **Fetal alcohol spectrum disorder council - Appointment - Duties - Annual reports to**~~
24 ~~**governor and legislative management.**~~
- 25 ~~_____ 1. The fetal alcohol spectrum disorder council consists of:~~
- 26 ~~_____ a. The executive director of the department, or the executive director's designee;~~
27 ~~_____ b. The superintendent of public instruction, or the superintendent's designee;~~
28 ~~_____ c. The executive director of the North Dakota protection and advocacy project, or~~
29 ~~the director's designee;~~
- 30 ~~_____ d. The director of the fetal alcohol spectrum disorder clinic at the university of North~~
31 ~~Dakota, or the director's designee;~~

- 1 ~~e. A member of the house of representatives from an even-numbered legislative-~~
2 ~~district and a member of the house of representatives from an odd-numbered-~~
3 ~~legislative district appointed by the majority leader of the house of~~
4 ~~representatives to serve two-year terms;~~
- 5 ~~f. A member of the senate from an even-numbered legislative district and a~~
6 ~~member of the senate from an odd-numbered legislative district appointed by the~~
7 ~~majority leader of the senate to serve two-year terms;~~
- 8 ~~g. The executive director of an organization that provides services and support to~~
9 ~~the fetal alcohol spectrum disorder community, or the executive director's~~
10 ~~designee;~~
- 11 ~~h. The director of the state council on developmental disabilities, or the director's~~
12 ~~designee; and~~
- 13 ~~i. The following members appointed by the governor:~~
- 14 ~~(1) A pediatrician with expertise in the area of fetal alcohol spectrum disorder;~~
15 ~~(2) A college of education faculty member with expertise in the area of fetal~~
16 ~~alcohol spectrum disorder;~~
- 17 ~~(3) A behavioral specialist;~~
- 18 ~~(4) A representative of a licensed residential care facility providing care and~~
19 ~~services to an individual with fetal alcohol spectrum disorder;~~
- 20 ~~(5) An enrolled member of a federally recognized Indian tribe;~~
- 21 ~~(6) An adult self-advocate with fetal alcohol spectrum disorder; and~~
- 22 ~~(7) Four parents of a child with fetal alcohol spectrum disorder.~~
- 23 ~~2. The council shall elect a chairman.~~
- 24 ~~3. The council shall meet at least quarterly at the call of the chairman.~~
- 25 ~~4. The council shall examine:~~
- 26 ~~a. Early intervention services;~~
- 27 ~~b. Family support services enabling an individual with fetal alcohol spectrum-~~
28 ~~disorder to remain in the least restrictive home-based or community setting;~~
- 29 ~~c. Programs transitioning an individual with fetal alcohol spectrum disorder from a~~
30 ~~school-based setting to adult day programs;~~
- 31 ~~d. Workforce development programs;~~

- 1 ~~e. The cost of providing services; and~~
2 ~~f. Federal resources providing services for individuals with fetal alcohol syndrome~~
3 ~~disorder.~~
4 ~~5. The council shall develop a state fetal alcohol spectrum disorder plan and present the~~
5 ~~plan to the governor and a legislative interim committee designated by the chairman of~~
6 ~~the legislative management before July 1, 2024. The council shall continue to review~~
7 ~~and periodically update or amend the plan to best serve the needs of individuals with~~
8 ~~fetal alcohol spectrum disorder and provide an annual report to the governor and a~~
9 ~~legislative interim committee designated by the chairman of the legislative~~
10 ~~management regarding the status of the plan.~~

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

13 **Cross-disability advisory council - Appointment - Duties.**

- 14 1. The cross-disability advisory council shall participate with and provide feedback to the
15 department regarding the implementation, planning, and design of the cross-disability
16 children's waiver and level of care reform for the comprehensive developmental
17 disabilities Medicaid home and community-based waiver.
18 2. The department shall contract with a qualified, independent third party to facilitate and
19 provide support services to the council. The contracted facilitator shall appoint the
20 cross-disability advisory council members in accordance with subsection 3 and
21 establish the length of members terms and the structure of the cross-disability
22 advisory council. A representative from the contracted facilitator shall serve as the
23 presiding officer of the advisory council.
24 3. The cross-disability advisory council consists of up to fifteen voting members. A
25 majority of the members of the council must be family members of individuals with a
26 disability, or must be individuals with a disability, who receive Medicaid home and
27 community-based services. The remaining members of the council must be appointed
28 based on their professional subject matter expertise in or knowledge of the needs and
29 interests of individuals with disabilities. The council's membership must represent
30 different regions of the state and a broad range of disabilities that pertain to the
31 Medicaid home and community-based services. Upon request of the department, state

1 agency representatives shall participate with the cross-disability advisory council in a
2 nonvoting role.

3 4. The cross-disability advisory council shall meet at least quarterly and may appoint
4 subcommittees to address specific topics or disabilities, which may include autism,
5 traumatic brain injury, and fetal alcohol spectrum disorder. A majority of the voting
6 members of the council constitutes a quorum.

7 5. The cross-disability advisory council shall:

8 a. Discuss strategies to address gaps or needs regarding individuals with
9 disabilities and Medicaid home and community-based services;

10 b. Provide for the active participation of stakeholders, including consumers and
11 providers; and

12 c. Receive information from the department and its consultants.

13 6. The cross-disability advisory council members, excluding the contracted facilitator, are
14 entitled to reimbursement from the department for travel and lodging at the same rate
15 as provided for state officers and employees.

16 **SECTION 4.** Section 50-11-01.7 of the North Dakota Century Code is created and enacted
17 as follows:

18 **50-11-01.7. Fetal alcohol spectrum disorder training.**

19 ~~Before an initial licensure or licensure renewal under this chapter, each foster parent shall~~
20 ~~complete a course of instruction related to fetal alcohol spectrum disorder.~~ The department shall
21 ~~create the training or provide the training through a third-party vendor~~ integrate fetal alcohol
22 spectrum disorder instruction into the training programs for public and private child welfare
23 providers and foster parents, and further shall integrate a formal fetal alcohol spectrum disorder
24 screening into the early and periodic screening diagnostic and treatment services. The course
25 may be provided electronically.