

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1091  
(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to the use of an automated clearinghouse to facilitate payment; to amend and reenact subsection 1 of section 50-06-01.4, subsection 8 of section 50-11-00.1, and sections 50-11-02 and 50-11-03.2 of the North Dakota Century Code, relating to shelter care services, foster care for children, foster care approval and licensing of facilities, and the use of public funds; and to provide for application.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:
  - a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, certification of shelter care services, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.
  - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
  - c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.
  - d. Administration of behavioral health programs, including:
    - (1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and
    - (2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
  - e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance,

child care assistance, refugee assistance, work experience, work incentive, and quality control.

- f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.
- g. Administration of general assistance.
- h. Administration of child support.

**SECTION 2. AMENDMENT.** Subsection 8 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

- 8. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a licensed or approved family foster home for children, supervised independent living program, or qualified residential treatment program.

**SECTION 3. AMENDMENT.** Section 50-11-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-11-02. License granted - Term - Conditions.**

- 1. The department shall grant a license for the operation of a facility receiving persons for foster care, for a period of not more than two years, to reputable and responsible persons upon showing that:
  - a. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all persons who may be received;
  - b. The persons in active charge of the facility are properly qualified to carry on efficiently the duties required of them;
  - c. The facility 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 persons cared for in the facility; and
  - d. The facility will be maintained according to the standards prescribed for its conduct by the rules of the department;
  - e. The applicant has not had a previous facility license denied within two years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the applicant; and
  - f. The applicant has not had a previous facility license revoked within five years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the applicant.
- 2. Before licensing or approving a facility providing foster care for children or adults, the department shall seek a criminal history record when required by this chapter. The department shall consider any criminal history record information available at the time a licensing or approval decision is made.

3. The department shall determine, in accordance with rules of the department, whether a license may be issued to a facility that houses or employs any individual who has a criminal record.

**SECTION 4. AMENDMENT.** Section 50-11-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**50-11-03.2. Use of public funds.**

Public funds for the purchase of foster care for children or adults may be used only in facilities licensed or approved by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a license or approval issued by the department. This section does not apply to any home or institution under the management and control of the state. Nonfederal funds may be used to reimburse the costs of shelter care placements for no more than seven days if the shelter care services are certified by the department. If the entity has diligently pursued other placement, the department may grant an extension for the health and safety of the child or due to unforeseeable circumstances.

**SECTION 5.** A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

**Automated clearinghouse payments.**

The department shall provide payment to family foster home for children, supervised independent living program, and qualified residential treatment program for children providers using an automated clearinghouse to provide for electronic fund transfers. To receive payment, family foster home for children, supervised independent living program, and qualified residential treatment program for children providers and applicants shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearinghouse. No other forms of payment are permitted, unless approved by the department.

**SECTION 6. APPLICATION.** The department of human services shall stagger implementation of section 5 of this Act so it applies:

1. On January 1, 2022, to foster home for children, supervised independent living program, and qualified residential treatment program for children providers first certified on or after January 1, 2022; and
2. On January 1, 2023, to foster home for children, supervised independent living program, and qualified residential treatment program for children providers in existence on December 31, 2021.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1091.

House Vote:    Yeas 87            Nays 2            Absent 5

Senate Vote:    Yeas 47            Nays 0            Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State