

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2039  
(Legislative Management)  
(Human Services Committee)

AN ACT to create and enact section 50-06-06.14 of the North Dakota Century Code, relating to the placement of children in the least restrictive environment; to amend and reenact sections 50-06-01, 50-06-01.4, 50-06-05.2, 50-06-05.3, 50-06-05.4, 50-06-06.2, and 50-06-06.5, and subsection 1 of section 50-06-20 of the North Dakota Century Code, relating to the structure and duties of the department of human services with respect to behavioral health; to repeal chapter 25-10 and sections 25-02-02, 50-06-01.2, and 50-06-23 of the North Dakota Century Code, relating to mental health services, the additional location for a hospital for the mentally ill, and the assumption of duties by the department of human services; to provide for transition; to provide a statement of legislative intent; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-01. Definition.**

As used in this chapter, unless the context otherwise requires, ~~"department" means the department of human services.:~~

1. "Behavioral health" means the planning and implementation of preventive, consultative, diagnostic, treatment, crisis intervention, and rehabilitative services for individuals with mental, emotional, or substance use disorders, and psychiatric conditions.
2. "Behavioral health provider" means any licensed or accredited behavioral health provider in this state.
3. "Department" means the department of human services.
4. "Human services" means services provided to an individual or an individual's family in need of services to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

**SECTION 2. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-01.4. Structure of the department.**

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, child protection services, children's trust fund, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee

services, in-home community-based services, 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 family care homes, committee on aging, and the fund matching program for city or county tax levies for senior citizen activities and services.
  - d. ~~Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.~~
  - e. ~~Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.~~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.
  - f.e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.
  - g.f. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening, diagnosis and treatment, utilization control, and claims processing.
2. The executive director shall consult with and maintain a close working relationship with the state department of health; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

**SECTION 3. AMENDMENT.** Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-05.2. Regional human service centers - Licensure - Collocation with county social service boards.**

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. ~~Services provided by regional human service centers must include those services formerly provided by mental health and retardation service units and area social service centers.~~ The regional human service centers must be accredited by a national accrediting body and are subject to licensing by the department. The department shall adopt rules ~~and standards for the licensing and for the~~ operation of the regional human service centers. ~~No~~A human service center may not operate without a license issued ~~hereunder~~in accordance with this section. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers. Any county social service board collocating its offices with a regional human service center must, within the limits of legislative appropriations, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.

**SECTION 4. AMENDMENT.** Section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-05.3. Regional human service centers - Powers - Duties - Human service advisory groups.**

1. ~~Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, food and nutrition, and housing service. Regional human service centers shall function as regional administrative units established, within the multicounty areas designated by the governor's executive order 1978-12 dated October 5, 1978, to provide for the planning and delivery of human services.~~
2. Regional human service centers shall provide human services to all eligible individuals and families to help ~~them~~individuals and families achieve or maintain social, emotional, and economic self-sufficiency; ~~prevent, by providing human services to:~~
  - a. ~~Prevent~~, reduce, or eliminate dependency; ~~prevent~~
  - b. ~~Prevent~~ or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; ~~aid~~
  - c. ~~Aid~~ in the preservation, rehabilitation, and reuniting of families; ~~prevent~~
  - d. ~~Prevent~~ or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; ~~secure~~
  - e. ~~Secure~~ referral or admission for institutional care; ~~provide~~
  - f. ~~Provide~~ outpatient diagnostic and treatment services; ~~provide~~
  - g. ~~Provide~~ information concerning guardianship to people interested in becoming or who are guardians; and ~~provide~~
  - h. ~~Provide~~ rehabilitation and crisis services for patients with mental ~~or~~, emotional, or substance use disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in an inpatient facility.
2. Regional human service centers shall deliver services in the manner prescribed by the department.

3. ~~The director shall appoint a human service advisory group for each human service center consisting of up to thirteen members.~~ Each human service center must have a human services advisory group consisting of the county social service directors of the region served, the public health directors of the region served, two current county commissioners appointed by the executive director of the department, and five additional members appointed by the executive director of the department. Each advisory group member must be a resident of the region the member is appointed to serve. ~~The director shall appoint two current county commissioners and one current county social service board member to serve as members of a human service advisory group. The director may appoint an additional current commissioner to serve in lieu of the current county social service board member. The term~~ term of office must be ~~for each appointed member is two years and arranged so that the term of one-half~~ for each appointed member is two years and arranged so that the term of one-half ~~three~~ three of the ~~appointed~~ appointed members expires at the end of the first year and the term of the remaining ~~four~~ four ~~appointed~~ appointed members expires at the end of the second year, ~~except for those first members appointed, three members shall serve a one-year term and four members shall serve a two-year term.~~ The director shall select the appointed members of each human service advisory group on the basis of population of the counties in the region served by the human service center. Each county in the region must be represented by at least one member on the human service advisory group. To the extent possible, appointed membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and ~~alcoholism and drug abuses~~ substance use disorders. The executive director of the ~~department~~ shall appoint a chairman for each advisory group from the membership of the advisory group. The ~~executive director of the department~~ shall fill a vacancy occurring within an advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate appointed members of a human service advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

**SECTION 5. AMENDMENT.** Section 50-06-05.4 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-05.4. Duties of human service advisory groups.**

Each human service advisory group of the regional human service centers shall perform the following duties:

1. Provide information to the department relative to needs assessment and the planning and development of health and social resources for the effective and efficient delivery of high-quality human services fully accessible to all citizens.
2. Review services and programs provided by the regional human service centers and make periodic recommendations ~~the advisory group may have~~ for improvement in services, programs, or facilities.
3. Promote cooperation and working agreements with public agencies, including public health and corrections and private human service agencies.
4. Promote local and regional financing from public and private sources.

**SECTION 6. AMENDMENT.** Section 50-06-06.2 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.**

Within the limits of legislative appropriation therefor and in accordance with rules established by the department, the department may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or

palliative items or services furnished medical assistance eligible individuals by regional human service centers or designated behavioral health providers. Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in regional human service centers and that federal funds available under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished eligible individuals by county social service boards and regional human service centers.

**SECTION 7. AMENDMENT.** Section 50-06-06.5 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-06.5. Continuum of services for ~~chronically mentally ill~~ individuals with serious and persistent mental illness.**

1. The department of human services shall develop a plan for an integrated, multidisciplinary continuum of services for ~~chronically mentally ill~~ individuals with serious and persistent mental illness. The continuum may consist of an array of services provided by private mental health professionals, private agencies, county social service agencies, human service centers, community-based residential care and treatment facilities, and private and public inpatient psychiatric hospitals. ~~To the extent feasible~~When appropriate, access to the continuum must be through human service centers. Within the limits of legislative appropriations, the plan for a continuum may include:
  1. a. Programs, and appropriate related facilities, to provide socialization skills.
  2. b. Programs, and appropriate related facilities, to provide basic living skills.
  3. c. Appropriate residential facilities and other housing options.
  4. d. Appropriate training, placement, and support to enhance potential for employment.
  5. e. Appropriate delivery and control of necessary medication.
  6. f. Appropriate economic assistance.
  7. g. An inpatient facility with appropriate programs to respond to persons who require hospitalization.
  - h. Peer and recovery support.
  - i. Crisis service that is available twenty-four hours a day seven days a week.
2. The continuum of care must provide that a person requiring treatment be submitted to the least restrictive available conditions necessary to achieve the purposes of treatment. The department shall ensure appropriate cooperation with county social service agencies and private providers in achieving the continuum of care.

**SECTION 8.** Section 50-06-06.14 of the North Dakota Century Code is created and enacted as follows:

**50-06-06.14. Placement of children - Least restrictive care.**

The department and county social service boards shall explore the option of kinship care when a child is unable to return home due to safety concerns. Absent kinship options, the department and county social service boards shall provide permanency options that are in the least restrictive care and near the family's home as required by the federal Adoption and Safe Family Act of 1997 [Pub. L. 105-89; 111 Stat. 2115; 42 U.S.C. 671].

**SECTION 9. AMENDMENT.** Subsection 1 of section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
  - a. As provided in section 50-24.1-14, medical assistance services provided under chapter 50-24.1;
  - b. Energy assistance program benefits provided under subsection ~~4918~~ of section 50-06-05.1;
  - c. Supplements provided under chapter 50-24.5 as basic care services;
  - d. Services, programs, and costs listed in section 50-09-27;
  - e. Welfare fraud detection programs; and
  - f. Special projects approved by the department and agreed to by any affected county social service board.

**SECTION 10. REPEAL.** Chapter 25-10 and sections 25-02-02, 50-06-01.2, and 50-06-23 of the North Dakota Century Code are repealed.

**SECTION 11. TRANSITION.** All unexpired terms of members of a human service advisory group under section 50-06-05.3 are deemed expired as of July 31, 2017. An individual who is a member of a human service advisory group as of July 31, 2017, who is otherwise qualified, may be reappointed to the human service advisory group on which the individual previously served.

**SECTION 12. LEGISLATIVE INTENT.** It is the intent of the sixty-fifth legislative assembly that the sixty-sixth legislative assembly appropriate funds to the department of human services to help defray the cost of the accreditation of regional human services centers required under section 3 of this Act.

**SECTION 13. EFFECTIVE DATE.** Section 3 of this Act becomes effective on August 1, 2021.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2039.

Senate Vote:    Yeas 44            Nays 2            Absent 1

House Vote:    Yeas 91            Nays 1            Absent 2

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

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

\_\_\_\_\_  
Secretary of State