

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2043
(Senators Kreun, G. Lee, Poolman, Hogue)
(Representatives Beadle, O'Brien)

AN ACT to amend and reenact subsection 1 of section 50-11.1-04, section 50-11.1-07.8, subsection 1 of section 50-11.1-17, and subsection 2 of section 50-25.1-11 of the North Dakota Century Code, relating to regulation of early childhood services and claims of child abuse and neglect.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing:
 - a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and are maintained according to rules adopted by the department;
 - b. Staff members are qualified to fulfill the duties required of ~~them~~the staff members according to the provisions of this chapter and standards prescribed for ~~their~~staff member qualifications by the rules of the department;
 - c. The application and supporting documents do not include any fraudulent or untrue representations;
 - d. The owner, operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;
 - e. The owner, operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within the five years immediately preceding the application date;
 - f. The program paid ~~its~~ license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
 - g. The family child care owner or operator and staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and are currently certified in first aid by a program approved by the department; and

- h. The group child care, preschool, school-age child care, or child care center, at all times during which early childhood services are provided, staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation and, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and currently certified in first aid by a program approved by the department.

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

50-11.1-07.8. Suspension of license, self-declaration, or registration document - InvestigationAssessment upon a report of child abuse or neglect - Notification to parent.

1. The department may:
 - a. Suspend a license, self-declaration, or registration document at any time after the onset of a child abuse and neglect investigationassessment alleging the owner or operator, the holder of a self-declaration, or the in-home provider ~~has committed~~:
 - (1) Committed child abuse, including child sexual abuse, or has neglected a child and law enforcement has been involved, if and continued operation is likely to jeopardize the health and safety of the children; or
 - (2) Neglected a child, law enforcement has been involved, and continued operation is likely to jeopardize the health and safety of the children.
 - b. Suspend a license, self-declaration, or registration document upon a child abuse or neglect services required determination indicating that a child has been abused or neglected by the owner or operator, the holder of a self-declaration, or the in-home provider, if continued operation is likely to jeopardize the health and safety of the children present.
 - c. Prohibit the presence of an accused owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member of the early childhood program, self-declaration, or in-home provider from the early childhood premises when children are in child care, upon a report of child abuse or neglect at the premises of the ~~licensed~~early childhood program, holder of the self-declaration, or registration, or involving a staff member or adult or minor household member if continued operation or the presence of the accused individual is likely to jeopardize the health and safety of the children present.
2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
 - a. Shall notify the parent of any child receiving early childhood services ~~when~~if that program's license, self-declaration, or registration document is suspended.
 - b. Shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services when if an owner, operator, holder of a self-declaration, in-home provider, ~~adult~~ staff member, or adult or minor household member of the program providing care of the child is ~~under investigation~~ under subsection 1 the subject of a child abuse and neglect assessment and the department determines:
 - (1) The reported child abuse or neglect places children in the early childhood program, self-declaration, or in-home provider at risk of abuse or neglect; and

- (2) If the reported child abuse or neglect occurred outside the care, supervision, or guidance of children in an early childhood program, self-declaration, or in-home provider, there was an impact or is a potential impact on care, supervision, or guidance of the children in the early childhood program, self-declaration, or in-home provider.
- c. Shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services that a an owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member is under investigation prohibited from the premises of the early childhood program, self-declaration, or in-home provider under subsection 1 if the staff member or household member is a minor.
3. Upon the conclusion and disposition of the investigation a child abuse and neglect assessment for which a determination services are required is found or for which the department issued a notice under subsection 2, the department shall notify provide notification of the disposition to the parent of each child who at the time of the determination is receiving early childhood services of the disposition.
4. Notwithstanding any provision to the contrary, any action taken under this section may preclude an individual's ability to operate pending an appeal.
5. Notwithstanding subsections 2 and 3:
- a. The department may reconsider a suspension or prohibition.
- b. If law enforcement requests a delay in notification, the department may delay notifying the owner, operator, holder of a self-declaration, or in-home provider and delay notifying the parent of any child receiving early childhood services. To be valid, a law enforcement request for a notification delay must be provided to the department in writing within forty-eight hours of law enforcement receiving notification of an alleged criminal matter. A notification delay may last up to sixty days and, upon request of law enforcement, may be renewed.

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

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department or the department's authorized agent shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department or the department's authorized agent shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Except as otherwise provided, the department shall approve a self-declaration within thirty days of receipt of a completed application and all supporting documents by the department and upon the applicant's declaration:
- a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and are maintained according to the standards prescribed by the rules of the department;
- b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in ~~its~~the rules of the department;
- c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;

- d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within five years of the application date;
- e. The applicant has paid the required application fees;
- f. The applicant has paid any penalties and sanctions assessed against the program required by sections 50-11.1-03 and 50-11.1-07.4;
- g. The applicant is currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;
- h. The emergency designee used by the applicant, if any, is currently certified in infant and pediatric cardiopulmonary resuscitation ~~and, including~~ the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;
- i. The applicant is currently certified in first aid through a training program approved by the department; and
- j. The application and supporting documents do not include any fraudulent or untrue representations.

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

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

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-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2043.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State