

Sixty-first  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2162

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact two new sections to chapter 50-11.1 of the North Dakota  
2 Century Code, relating to self-declaration of an individual who provides early childhood  
3 services; to amend and reenact sections 50-11.1-02, 50-11.1-02.1, 50-11.1-03, 50-11.1-04,  
4 50-11.1-06, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3,  
5 50-11.1-07.4, 50-11.1-07.5, 50-11.1-07.6, 50-11.1-07.8, 50-11.1-08, 50-11.1-09, 50-11.1-10,  
6 50-11.1-11, 50-11.1-11.1, 50-11.1-12, and 50-11.1-13.1 of the North Dakota Century Code,  
7 relating to licensing and registration of early childhood services providers, investigation of early  
8 childhood services providers, denial or revocation of request for early childhood services  
9 provider licensure or registration, and resource and referral services; to repeal section  
10 50-11.1-03.1 of the North Dakota Century Code, relating to cardiopulmonary resuscitation  
11 certification for a family child care home operator; to provide a penalty; and to provide an  
12 expiration date.

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

14 **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **50-11.1-02. Definitions.** As used in this chapter, unless the context or subject matter  
17 otherwise requires:

- 18 1. "Authorized agent" means the county social service board, unless another entity is  
19 designated by the department.
- 20 2. "Child care center" means an early childhood ~~facility where~~ program licensed to  
21 provide early childhood services ~~are provided~~ to nineteen or more children.
- 22 3. "County agency" means the county social service board in each of the counties of  
23 the state.
- 24 4. "Department" means the department of human services.

- 1           5. "Drop-in care" means the care of children on a one-time, occasional, or  
2           unscheduled basis to meet the short-term needs of families.
- 3           6. "Early childhood ~~facility program~~" means any facility program licensed under this  
4           chapter where early childhood services are provided, ~~whether the facility is known~~  
5           ~~as a child care center, day care home, day care center, day nursery, family child~~  
6           ~~care home, group child care home, preschool educational facility nursery school,~~  
7           ~~kindergarten, child play school, progressive school, child development center,~~  
8           ~~preschool, drop-in care center, or known by any other name~~ for at least two hours  
9           a day for two or more days a week.
- 10          7. "Early childhood services" means the care, supervision, education, or guidance of  
11          a child or children, ~~unaccompanied by the child's parent, guardian, or custodian,~~  
12          which is provided in exchange for money, goods, or other services ~~and is, or is~~  
13          ~~anticipated to be, ongoing for periods of two or more hours per day for a part of~~  
14          ~~three or more days per week.~~ Early childhood services does not include:
- 15          a. Substitute parental child care provided pursuant to chapter 50-11.
- 16          b. Child care provided in any educational facility, whether public or private, in  
17          grade one or above.
- 18          c. Child care provided in a kindergarten which has been established pursuant to  
19          chapter 15.1-22 or a nonpublic elementary school program approved  
20          pursuant to subsection 1 of section 15.1-06-06.
- 21          d. Child care, preschool, and prekindergarten services provided to ~~preschool~~  
22          ~~age handicapped~~ children under six years of age in any educational facility  
23          through a program approved by the superintendent of public instruction.
- 24          e. Child care provided in facilities operated in connection with a church,  
25          ~~shopping center, business, or other establishment~~ organization where  
26          children are cared for during periods of time not exceeding four continuous  
27          hours while the child's parent, ~~guardian, or custodian~~ is attending church  
28          services, ~~shopping,~~ or is engaged in other activities, on ~~or near~~ the premises.
- 29          f. Schools or classes for religious instruction conducted by religious orders  
30          during the summer months for not more than two weeks, Sunday schools,  
31          weekly catechism, or other classes for religious instruction.

- 1 g. Summer resident or day camps for children which serve no ~~preschool-age~~  
2 children under six years of age for more than two weeks.
- 3 h. Sporting events, practices for sporting events, or sporting or physical activities  
4 conducted under the supervision of an adult.
- 5 i. ~~Headstart~~ Head start and early head start programs that are federally funded  
6 and meet federal ~~headstart~~ head start performance standards.
- 7 j. Child care provided ~~by a hospital~~ in a medical facility by medical personnel  
8 ~~within the physical structure of the hospital~~ to children who are ill.
- 9 8. "Family child care ~~home~~" means ~~an occupied~~ a private residence in which licensed  
10 to provide early childhood services ~~are provided~~ for no more than seven children at  
11 any one time, except that the term includes a residence ~~providing~~ licensed to  
12 provide early childhood services to two additional school-age children during the  
13 two hours immediately before and after the schoolday and all day, except Saturday  
14 and Sunday, when school is not in session during the official school year.
- 15 9. "Group child care ~~home~~" or "~~group child care facility~~" means a child care ~~facility~~  
16 ~~where~~ program licensed to provide early childhood services ~~are provided~~ for ~~eight~~  
17 ~~through~~ eighteen or fewer children ~~or a facility, other than an occupied private~~  
18 ~~residence, which serves fewer than eight children.~~
- 19 10. "Household member" means an adult living in the private residence out of which a  
20 program is operated, regardless of whether the adult is living there permanently or  
21 temporarily.
- 22 11. "In-home provider" means any person who provides early childhood services to  
23 children in the children's home.
- 24 44. 12. "~~License~~ Licensed" means an early childhood program has the rights, authority, or  
25 permission granted by the department to operate ~~a family child care home, group~~  
26 ~~child care facility, child care center, drop in care center, or preschool educational~~  
27 facility and provide early childhood services.
- 28 42. 13. "Multiple licensed ~~facility~~ program" means an early childhood ~~facility that provides~~  
29 program licensed to provide more than one type of early childhood services.
- 30 43. 14. "Owner" or "operator" means the person who has legal responsibility for the early  
31 childhood program and premises.

- 1           15.   "Parent" means an individual with the legal relationship of father or mother to a  
2                   child or an individual who legally stands in place of a father or mother, including a  
3                   legal guardian or custodian.
- 4           16.   "Premises" means the indoor and outdoor areas approved for providing early  
5                   childhood services.
- 6           17.   "Preschool educational facility" means a facility that offers program licensed to  
7                   offer early childhood services and, which follows a preschool curriculum and  
8                   course of study designed primarily to enhance the educational development of the  
9                   children enrolled in the facility and that which serves no child for more than three  
10                  hours per day.
- 11          18.   "Public approval" means a nonlicensed early childhood program operated by a  
12                  government entity that has self-certified that the program complies with this  
13                  chapter.
- 14   44. 19.   "Registrant" means the holder of a an in-home provider registration document  
15                  issued by the department in accordance with this chapter.
- 16   45. 20.   "Registration" means the process whereby the department maintains a record of  
17                  all in-home providers who have stated that they have complied or will comply with  
18                  the prescribed standards and adopted rules.
- 19   46. 21.   "Registration document" is means a written instrument issued by the department to  
20                  publicly document that the registrant has complied with this chapter and the  
21                  applicable rules and standards as prescribed by the department.
- 22          22.   "School-age child care" means a child care program licensed to provide early  
23                  childhood services on a regular basis for nineteen or more children aged five years  
24                  through eleven years.
- 25          23.   "Self-declaration" means voluntary documentation of an individual providing early  
26                  childhood services in a private residence for up to three children below the age of  
27                  twenty-four months or for no more than five children through the age of eleven.
- 28          24.   "Staff member" means operator, caregiver, provider, or any other individual,  
29                  whether paid or volunteer, who provides care, supervision, or guidance to children  
30                  in an early childhood program and includes food preparation, transportation, and  
31                  maintenance personnel.

1           **SECTION 2. AMENDMENT.** Section 50-11.1-02.1 of the North Dakota Century Code  
2 is amended and reenacted as follows:

3           **50-11.1-02.1. Number of children in program - How determined.** For the purpose of  
4 determining the number of children ~~in an~~ receiving early childhood facility services, all children  
5 ~~of the operator or employees, present in the facility on the premises~~ and under the age of  
6 twelve years; must be counted ~~except for purposes of determining fire, safety, or zoning~~  
7 requirements. All children present are protected by this chapter regardless of whether money  
8 is received or goods or other services are received for their care.

9           **SECTION 3. AMENDMENT.** Section 50-11.1-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **50-11.1-03. Operation of family child care home, group child care facility,**  
12 **~~preschool educational facility, and child care center~~ early childhood services program -**  
13 **License required - Fees.**

- 14           1. A license for a family child care ~~home~~ is required if early childhood services are  
15 provided for four or more children ages twenty-four months and under, or six or  
16 more seven children through age eleven at any one time which includes no more  
17 than three children under twenty-four months of age. ~~These persons not required~~  
18 by this subsection to hold a family child care license may voluntarily apply for and  
19 receive such a license.
- 20           2. ~~No~~ A license for group child care is required if early childhood services are  
21 provided for at least eight and no more than eighteen children at any one time.
- 22           3. A license for a child care center is required if early childhood services are provided  
23 for more than eighteen children at any one time.
- 24           4. A person, partnership, firm, corporation, limited liability company, association, or  
25 nongovernmental organization may not establish or operate a family child care,  
26 group child care facility, preschool educational facility, school-age child care, or  
27 child care center unless licensed to do so by the department. ~~No~~
- 28           5. A governmental organization may not establish or operate a family child care,  
29 group child care facility, preschool educational facility school-age child care, or  
30 child care center without first receiving public approval by certifying, to the  
31 department or the department's authorized agent, that it has complied with all rules

- 1 applicable to family child care, group child care ~~facilities~~, preschool ~~educational~~  
2 ~~facilities~~, or school-age child care, or to child care centers.
- 3 ~~3-~~ 6. An applicant for a license shall submit the following nonrefundable fees with the  
4 application:
- 5 a. The operator of a family child care ~~home~~ applying for a license shall pay an  
6 annual license fee of twenty dollars or if the license is issued for a two-year  
7 period, a fee of thirty-five dollars.
- 8 b. The operator of a group child care ~~home~~ applying for a license shall pay an  
9 annual license fee of twenty-five dollars or if the license is issued for a  
10 two-year period, a fee of forty-five dollars.
- 11 c. The operator of a preschool ~~educational facility~~ applying for a license shall  
12 pay an annual license fee of thirty dollars or if the license is issued for a  
13 two-year period, a fee of fifty-five dollars.
- 14 d. The operator of a child care center applying for a license shall pay an annual  
15 license fee of forty dollars or if the license is issued for a two-year period, a  
16 fee of seventy-five dollars.
- 17 e. The operator of a multiple licensed ~~facility~~ program applying for a license shall  
18 pay an annual license fee of fifty dollars or if the license is issued for a  
19 two-year period, a fee of ninety-five dollars.
- 20 ~~4-~~ 7. In addition to any criminal sanctions or other civil penalties which may be imposed  
21 pursuant to law, the operator of an early childhood ~~facility~~ program who, after  
22 being given written notice by ~~a representative of the department or the~~  
23 department's authorized agent, continues to provide early childhood services  
24 without a license as required by this section is subject to a civil penalty of ~~fifty two~~  
25 hundred dollars per day for each day of operation without ~~such~~ the required  
26 license. The civil penalty may be imposed by the courts or by the department  
27 through an administrative hearing pursuant to chapter 28-32.
- 28 ~~5-~~ 8. All fees collected under subsection ~~3~~ 6 must be paid to the department or the  
29 department's authorized agent and must be used to defray the cost, to the  
30 department or the department's authorized agent, of investigating, inspecting, and

1           evaluating the applications or to provide training to providers of early childhood  
2           services.

3           **SECTION 4. AMENDMENT.** Section 50-11.1-04 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **50-11.1-04. Application for license - Prerequisites for issuance - License**  
6 **granted - Term.** ~~Applications~~

7           1. ~~An application for operation of an early childhood facility licenses program~~ must be  
8 made on forms provided, in the manner prescribed, by the department. The  
9 department or the department's authorized agent shall investigate the applicant's  
10 activities and proposed standards of care and shall make an inspection of all  
11 ~~facilities premises to be used by the early childhood program~~ applying for a  
12 license. The applicant for a license and the ~~applicant's employees staff members,~~  
13 and, if the ~~license application~~ is for ~~an occupied a program~~ that will be located in a  
14 private residence, every ~~person individual living or working~~ in that residence, ~~may~~  
15 must be investigated in accordance with the rules adopted by the department to  
16 determine whether any of them has a criminal record or has had a finding of  
17 services required for child abuse or neglect filed against them. The department  
18 may use the findings of the investigation to determine licensure. Except as  
19 otherwise provided, the department shall grant a license for the operation of an  
20 early childhood ~~facility program~~ upon a showing that:

21           4. a. The premises to be used are in fit and sanitary condition ~~and, are~~ properly  
22 equipped to provide for the health and safety for all children ~~who may be~~  
23 received, and must be maintained according to rules adopted by the  
24 department;

25           2. ~~The persons in charge of the facility and their assistants~~

26           b. Staff members are qualified to fulfill the duties required of them according to  
27 the provisions of this chapter and standards prescribed for their qualifications  
28 by the rules ~~and regulations~~ of the department;

29           3. ~~The facility will be maintained according to the standards prescribed for its conduct~~  
30 ~~by the rules and regulations of the department;~~

31           c. The application does not include any fraudulent or untrue representations;

- 1           4.   d. The ~~facility~~ owner or operator, or applicant has not had a previous license or  
2                   self-declaration denied or revoked within the ~~one hundred eighty days~~ twelve  
3                   months prior to the date of the current application;
- 4           e.   The owner or operator, or applicant has not had three or more previous  
5                   licenses or self-declarations denied or revoked. The most recent revocation  
6                   or denial cannot have occurred within the five years immediately preceding  
7                   the application date;
- 8           5-   f. The ~~facility~~ program has paid its license fees and any penalties assessed  
9                   against the ~~facility~~ program as required by section 50-11.1-03;
- 10           g.   The family child care owner or operator has received training and is currently  
11                   certified in cardiopulmonary resuscitation by the American heart association,  
12                   American red cross, or other similar cardiopulmonary resuscitation training  
13                   programs that are approved by the department, and is currently certified in  
14                   first aid by a program approved by the department; and
- 15           6-   h. The group child care, preschool, school-age child care, or child care center  
16                   ~~facility~~ maintains, at all times during which early childhood services ~~is~~ are  
17                   provided, at least one person who has received training and is currently  
18                   certified in ~~rescuer~~ cardiopulmonary resuscitation by the American heart  
19                   association, American red cross, or other similar cardiopulmonary  
20                   resuscitation training programs that are approved by the department, and at  
21                   least one person who is currently certified in first aid by a program approved  
22                   by the department.
- 23           2.   The license issued to the owner or operator of an early childhood ~~facility~~ must  
24                   services program may not be in force and effect effective for a period of not more  
25                   longer than two years.
- 26           3.   The department may consider the applicant's prior licensing, self-declaration, and  
27                   registration history in determining whether to issue a license.
- 28           4.   The department may issue a provisional or restricted license in accordance with  
29                   the rules of the department.

30           **SECTION 5. AMENDMENT.** Section 50-11.1-06 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **50-11.1-06. In-home provider - Registration voluntary - Prerequisites for**  
2 **approval - Issuance of registration ~~certificate document~~ - Term.** ~~In-home providers~~ An  
3 in-home provider may apply for a registration ~~certificate document~~ from the department. The  
4 department or the department's authorized agent shall determine whether the applicant meets  
5 the standards ~~have been met~~ and shall issue or deny a registration ~~certificate document~~ based  
6 upon that determination. ~~Registration certificates~~ A registration document for an in-home  
7 ~~providers must be in force and effect~~ provider may not be effective for ~~not more~~ longer than  
8 one year. The application does not include any fraudulent or untrue representations. The  
9 department may consider the early childhood services history of the applicant in determining  
10 issuance of a registration document. The department may investigate an applicant according  
11 to rules adopted by the department to determine whether the applicant has a criminal record or  
12 has been the subject of a finding of services required for child abuse and neglect.

13           **SECTION 6.** A new section to chapter 50-11.1 of the North Dakota Century Code is  
14 created and enacted as follows:

15           **Self-declaration - Approved application required - Fees.**

- 16           1. a. An application for self-declaration is voluntary. An individual may apply for  
17 self-declaration from the department. The department or the department's  
18 authorized agent shall determine whether the standards for self-declaration  
19 have been met and shall approve or deny a self-declaration based upon that  
20 determination.
- 21           b. An applicant for self-declaration shall pay a nonrefundable fee of fifteen  
22 dollars at the time the application is filed.
- 23           2. All fees collected under this section must be paid to the department or the  
24 department's authorized agent and must be used to defray the cost of  
25 investigating, inspecting, and evaluating applications for self-declarations or to  
26 provide training to providers of early childhood services.

27           **SECTION 7.** A new section to chapter 50-11.1 of the North Dakota Century Code is  
28 created and enacted as follows:

29           **Application for self-declaration - Prerequisites for approval - Approval - Term.**

- 30           1. Applications for self-declarations must be made on forms provided and in the  
31 manner prescribed by the department. The department or the department's

1           authorized agent shall investigate the applicant and every individual living in the  
2           private residence and shall conduct a background check. The department or the  
3           department's authorized agent shall conduct the investigation in accordance with  
4           the rules adopted by the department and shall determine whether any of them has  
5           a criminal record or has had a finding of services required for child abuse or  
6           neglect filed against them. Except as otherwise provided, the department shall  
7           approve a self-declaration upon the applicant's declaration that:

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

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

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

16           d.   The applicant has not had three or more previous licenses or self-declarations  
17           denied or revoked. The most recent revocation or denial cannot have  
18           occurred within five years of the application date;

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

20           f.   The applicant has paid any penalties assessed against the program required  
21           by section 50-11.1-03;

22           g.   The applicant is currently certified in cardiopulmonary resuscitation by the  
23           American heart association, the American red cross, or a similar  
24           cardiopulmonary resuscitation training program approved by the department;

25           h.   The applicant is currently certified in first aid through a training program  
26           approved by the department; and

27           i.   The application does not include any fraudulent or untrue representations.

28           2.   Self-declaration documents are in effect for one year, provided, however, that if a  
29           provisional self-declaration document is issued to allow an applicant to certify in  
30           cardiopulmonary resuscitation and first aid, the provisional document may not be in  
31           effect longer than six months. The effective date of a provisional document is the

1           effective date of a full self-declaration document upon the applicant meeting the  
2           conditions of the provisional document. The department may approve a  
3           self-declaration a maximum of three times, provided, however, that a  
4           self-declaration holder who is also an approved relative provider for purposes of  
5           child care assistance is exempt from the three times limitation if the  
6           self-declaration holder does not provide early childhood services to nonapproved  
7           relatives.

8           3. The department may consider the early childhood services history of the applicant  
9           in determining issuance of a self-declaration document.

10          **SECTION 8. AMENDMENT.** Section 50-11.1-06.1 of the North Dakota Century Code  
11 is amended and reenacted as follows:

12           **50-11.1-06.1. Conviction not bar to licensure, self-declaration, or registration -**

13 **Exceptions.** Conviction of an offense does not disqualify ~~a person~~ an individual from  
14 licensure, self-declaration, or registration under this chapter unless the department determines  
15 ~~that the:~~

- 16           1. The offense has a direct bearing upon ~~a person's~~ the individual's ability to serve  
17 the public as the owner or proprietor ~~operator~~ operator of an early childhood ~~facility~~  
18 program, holder of a self-declaration, or as an in-home provider; ~~or that, following~~  
19           2. Following conviction of any offense, the ~~person~~ individual is not sufficiently  
20 rehabilitated under section 12.1-33-02.1.

21          **SECTION 9. AMENDMENT.** Section 50-11.1-06.2 of the North Dakota Century Code  
22 is amended and reenacted as follows:

23           **50-11.1-06.2. ~~Carecheck registry—Child care providers— Background~~**

24 **investigations - Fees.** Placement in the carecheck registry is voluntary. ~~To apply for~~  
25 ~~placement in the carecheck registry, an in-home provider, a family child care home exempt~~  
26 ~~from licensure, or a licensed~~

- 27           1. Applicants for early childhood services ~~provider~~ licensure or self-declaration or  
28 in-home provider, as well as staff members of early childhood services programs  
29 and household members of a residence out of which early childhood services are  
30 provided, shall obtain two sets of ~~that person's own~~ the individual's fingerprints

- 1 from a law enforcement agency or other local agency authorized to take  
2 fingerprints ~~and.~~
- 3 2. The individual shall request the agency to submit the fingerprints and a completed  
4 fingerprint card for each set to the division of children and family services of the  
5 department or to ~~any division as determined appropriate by the department~~  
6 department's authorized agent.
- 7 3. If the division has no record of a determination of services required for child abuse  
8 or neglect, the division shall submit the fingerprints to the bureau of criminal  
9 investigation to determine if there is any criminal history record information  
10 regarding the applicant ~~for carecheck, household members, or staff members~~ in  
11 accordance with section 12-60-24.
- 12 4. The results of the investigations must be forwarded to the division of children and  
13 family services of the department or to ~~any other division as determined~~  
14 ~~appropriate by the department. The applicant for placement in the carecheck~~  
15 ~~registry, after satisfying requirements imposed by the department, must be placed~~  
16 ~~in the carecheck registry if no relevant criminal history record information is found~~  
17 ~~and no report of a determination of services required for child abuse or neglect~~  
18 ~~filed pursuant to section 50-25.1-05.2 is found which would disqualify the person~~  
19 department's authorized agent.
- 20 5. The division may charge the applicant a fee not to exceed thirty dollars for the  
21 purpose of processing the application.
- 22 6. The division is not subject to the fee imposed under section 12-60-16.9 when  
23 requesting criminal history record information from the bureau of criminal  
24 investigation. ~~The division, within one hundred eighty days after July 1, 1991, shall~~  
25 ~~provide, through a toll free telephone line maintained by the department, a means~~  
26 ~~to allow interested parents or guardians, employment agencies, or child care~~  
27 ~~referral groups to determine if a person has met the requirements for placement in~~  
28 ~~the carecheck registry. The division shall undertake a public awareness effort to~~  
29 ~~explain the existence and purpose of the carecheck toll free telephone line.~~
- 30 7. An agency that takes fingerprints as provided under this section may charge a  
31 reasonable fee to offset the costs of the fingerprinting.

1           8. The department may use background investigation findings to determine approval  
2                 or denial of an early childhood services license, self-declaration, or in-home  
3                 registration.

4           **SECTION 10. AMENDMENT.** Section 50-11.1-07 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **50-11.1-07. Investigation of ~~applicants, licensees, and registrants~~, applicant,**  
7 **licensee, holder of self-declaration or registration document, and staff members -**  
8 **Inspection of programs and premises - Maintenance of records - Confidentiality of**  
9 **records.**

10          1. The department ~~and~~ or its authorized agent at any time may investigate and  
11 inspect an early childhood program, or a holder of a self-declaration or registration  
12 document and the conditions of ~~the facility~~ their premises, the qualifications of ~~the~~  
13 providers a provider of early childhood services ~~in any early childhood facility, and~~  
14 the qualifications, of current and prospective staff members, of any in-home  
15 provider or applicant seeking or holding a license, self-declaration, or registration  
16 document under this chapter.

17          2. Upon request of the department or its authorized agent, the state department of  
18 health or the state fire marshal, or the fire marshal's designee, shall inspect ~~any~~  
19 facility the premises for which a license or self-declaration is applied ~~for~~ or issued  
20 and shall report the findings to the department or the department's authorized  
21 agent.

22          ~~2. Licensees and registrants~~

23          3. A licensee, holder of a self-declaration, or registrant shall:

24           a. Maintain ~~such~~ records as the department ~~may prescribe~~ prescribes regarding  
25 each child in ~~their~~ the licensee's, holder's, or registrant's care and control, and  
26 shall report to the department or the department's authorized agent, when  
27 requested, ~~such~~ upon forms furnished by the department, facts ~~as the~~  
28 department may require with reference to ~~the children upon forms furnished~~  
29 ~~by the department~~ each child;

- 1           b. Admit for inspection ~~authorized agents of the department or the department's~~  
2           authorized agent and open for examination all records, books, and reports ~~of~~  
3           ~~the home or facility~~; and
- 4           c. Notify the parent, ~~guardian, or custodian~~ of each child receiving ~~care at the~~  
5           ~~facility~~ early childhood services and ~~each employee of the facility~~ all staff  
6           members of the process for reporting a complaint or a suspected licensing  
7           violation.
- 8       ~~3.~~ 4. Except as provided in subsection ~~4~~ 5, all records and information maintained with  
9       respect to ~~children~~ any child receiving early childhood services are confidential and  
10       must be properly safeguarded and may not be disclosed except:
- 11           a. In a judicial proceeding;
- 12           b. To officers of the law or other legally constituted boards or agencies; or
- 13           c. To persons having a definite interest in the well-being of the child ~~or children~~  
14           concerned and who, in the judgment of the department, are in a position to  
15           serve ~~their~~ the child's interests should that be necessary.
- 16       ~~4.~~ 5. A provider of early childhood services, upon the request of the parent ~~or guardian~~  
17       of a child for whom the provider provides such services, shall make available to the  
18       parent ~~or guardian~~ a list of the names, telephone numbers, and addresses of the  
19       parents ~~or guardians~~ of children for whom early childhood services are provided.  
20       The list may ~~only~~ include only the names, telephone numbers, ~~or~~ electronic mail  
21       addresses, and addresses of parents ~~or guardians~~ who grant the provider  
22       permission to disclose that information.
- 23       6. The following information for early childhood services licensees, self-declarations,  
24       in-home providers, staff members, and adults residing in a home out of which early  
25       childhood services are provided is not confidential:
- 26           a. Name;
- 27           b. Address;
- 28           c. Telephone number; and
- 29           d. Electronic mail address.

30           **SECTION 11. AMENDMENT.** Section 50-11.1-07.1 of the North Dakota Century Code  
31 is amended and reenacted as follows:

1           **50-11.1-07.1. Notice.** After each inspection or reinspection, the department or the  
2 department's authorized agent ~~shall~~, by certified mail, shall send copies of any correction order  
3 or notice of noncompliance, to the early childhood facility program or holder of a  
4 self-declaration.

5           **SECTION 12. AMENDMENT.** Section 50-11.1-07.2 of the North Dakota Century Code  
6 is amended and reenacted as follows:

7           **50-11.1-07.2. Correction orders.**

- 8           1. Whenever the department or the department's authorized agent finds, upon  
9 inspection ~~of an early childhood facility~~, that the facility program, self-declaration,  
10 or premises is not in compliance with ~~the provisions of this chapter~~, or the rules  
11 ~~and regulations promulgated thereunder~~ adopted under this chapter, the  
12 department or the department's authorized agent shall issue a correction order  
13 ~~must be issued~~ to the facility program or self-declaration, provided the department  
14 does not revoke the license or self-declaration as a result of the noncompliance.  
15 The correction order must cite the specific statute or ~~regulation~~ rule violated, state  
16 the factual basis of the violation, state the suggested method of correction, and  
17 specify the time allowed for correction. The correction order must also specify the  
18 amount of any fiscal sanction to be assessed if the program or self-declaration fails  
19 to comply with the correction order ~~is not complied with~~ in a timely fashion. ~~The~~  
20 ~~department shall, by rule promulgated pursuant to subsection 2 of section~~  
21 ~~50-11.1-08, establish a schedule of allowable time periods for correction of~~  
22 ~~deficiencies~~.
- 23           2. Within three business days of the receipt of the correction order, the licensee of  
24 the early childhood facility program or the holder of a self-declaration shall notify  
25 the parent, ~~guardian, or custodian~~ of each child receiving ~~care at the facility~~ early  
26 childhood services that a correction order has been issued. In addition to  
27 providing notice to the parent, ~~guardian, or custodian~~ of each child, the licensee or  
28 holder of a self-declaration shall post the correction order in a conspicuous location  
29 ~~within~~ upon the facility early childhood premises until the violation has been  
30 corrected or for five days, whichever is longer.

1           **SECTION 13. AMENDMENT.** Section 50-11.1-07.3 of the North Dakota Century Code  
2 is amended and reenacted as follows:

3           **50-11.1-07.3. Reinspections.** ~~An~~ The department or the department's authorized  
4 agent shall reinspect an early childhood facility program or holder of a self-declaration issued a  
5 correction order under section 50-11.1-07.2 ~~must be reinspected,~~ at the end of the period  
6 allowed for correction. If, upon reinspection, ~~it is determined~~ the department determines that  
7 the facility program or holder of a self-declaration has not corrected a violation identified in the  
8 correction order, the department shall mail to the program or the holder of a self-declaration, by  
9 certified mail, a notice of noncompliance with the correction order ~~must be mailed by certified~~  
10 ~~mail to the facility.~~ The notice must specify the violations not corrected and the penalties  
11 assessed in accordance with section 50-11.1-07.5.

12           **SECTION 14. AMENDMENT.** Section 50-11.1-07.4 of the North Dakota Century Code  
13 is amended and reenacted as follows:

14           **50-11.1-07.4. Fiscal sanctions.** ~~An~~ If the department or the department's authorized  
15 agent issues a notice of noncompliance with a correction order to an early childhood facility, if  
16 ~~issued a notice of noncompliance with a correction order, must be assessed~~ program or holder  
17 of a self-declaration, the department shall assess fiscal sanctions in accordance with a  
18 schedule of fiscal sanctions established by rules ~~promulgated pursuant to~~ adopted by the  
19 department under subsection 2 of section 50-11.1-08. The department shall assess a fiscal  
20 sanction ~~must be assessed~~ for each day the facility early childhood program or holder of a  
21 self-declaration remains in noncompliance after the allowable time period for the correction of  
22 ~~deficiencies~~ violations ends and the sanction must continue as set forth in section 50-11.1-07.6  
23 until a ~~the department receives~~ notice of correction is received by the department or the  
24 ~~department's authorized agent in accordance with section 50-11.1-07.6. No~~ indicating the  
25 violations are corrected. The fiscal sanction for a specific violation may not exceed ~~twenty-five~~  
26 one hundred dollars per day of noncompliance.

27           **SECTION 15. AMENDMENT.** Section 50-11.1-07.5 of the North Dakota Century Code  
28 is amended and reenacted as follows:

29           **50-11.1-07.5. Accumulation of fiscal sanctions.** An early childhood facility program  
30 or holder of a self-declaration shall promptly notify the department or the department's  
31 authorized agent in writing when a violation noted in a notice of noncompliance is corrected.

1 Upon receipt of written notice by the department or the department's authorized agent, the daily  
2 fiscal sanction assessed for the ~~deficiency violation~~ must stop accruing. The ~~facility must be~~  
3 ~~reinspected~~ department or the department's authorized agent shall reinspect the early  
4 childhood program or premises out of which the holder of the self-declaration is operating within  
5 three working days after receipt of the notification. If, upon reinspection, ~~it is determined the~~  
6 department determines that a ~~deficiency violation~~ has not been corrected, the department shall  
7 resume the daily assessment of fiscal sanction ~~must resume~~ and shall add the amount of fiscal  
8 sanction which otherwise would have accrued during the period prior to resumption ~~must be~~  
9 ~~added~~ to the total assessment due from the facility program or holder of the self-declaration.  
10 The department or the department's authorized agent shall notify the facility of the resumption  
11 by certified mail. Recovery of the resumed fiscal sanction must be stayed if the operator of the  
12 facility makes a written request for an administrative hearing in the manner provided in chapter  
13 28-32; provided, that written request for the hearing is made to the department within ten days  
14 of the notice of resumption.

15 **SECTION 16. AMENDMENT.** Section 50-11.1-07.6 of the North Dakota Century Code  
16 is amended and reenacted as follows:

17 **50-11.1-07.6. Recovery of fiscal sanctions - Hearing.** Fiscal sanctions assessed  
18 pursuant to this chapter are payable fifteen days after receipt of the notice of noncompliance  
19 and at fifteen-day intervals thereafter, as the fiscal sanctions accrue. Recovery of an assessed  
20 fiscal sanction must be stayed if the ~~operator~~ program or holder of a self-declaration makes  
21 written request to the department for an administrative hearing within ten days after the ~~facility's~~  
22 ~~receipt of~~ early childhood program or the holder of the self-declaration receives the notice. If  
23 the appeal is unsuccessful or withdrawn, the daily assessment of fiscal sanctions must resume  
24 and the department shall add the amount of fiscal sanctions which otherwise would have  
25 accrued during the period prior to resumption to the total assessment due from the early  
26 childhood program or the holder of a self-declaration. The department or the department's  
27 authorized agent shall notify the early childhood program or the holder of a self-declaration of  
28 the resumption by certified mail.

29 **SECTION 17. AMENDMENT.** Section 50-11.1-07.8 of the North Dakota Century Code  
30 is amended and reenacted as follows:

1           **50-11.1-07.8. Suspension of license, self-declaration, or registration document -**  
2 **Notification to parent, ~~guardian, or custodian~~.**

3           1. The department may suspend ~~the a~~ license ~~of any early childhood~~  
4 ~~facility, self-declaration, or registration document~~ during an investigation of a report  
5 of child abuse or neglect at the ~~facility conducted pursuant to section 50-25.1-05~~  
6 ~~premises of the licensed program, holder of the self-declaration, or registration, or~~  
7 ~~of a staff member.~~

8           2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department shall notify  
9 the parent, ~~guardian, or custodian~~ of any child receiving care ~~at the facility~~ early  
10 childhood services when ~~the~~ that program's license of the facility, self-declaration,  
11 or registration document is suspended.

12           3. Upon the conclusion and disposition of the investigation of the facility program, the  
13 department shall notify the parent, ~~guardian, or custodian~~ of the each child  
14 receiving early childhood services of the disposition.

15           **SECTION 18. AMENDMENT.** Section 50-11.1-08 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **50-11.1-08. Minimum standards - Rules ~~and regulations~~ - Inspection by a**  
18 **governmental unit.** The department may:

19           1. Establish reasonable minimum standards for the operation of early childhood  
20 ~~facilities programs, self-declaration,~~ and the registration of in-home providers. In  
21 appropriate circumstances and upon good cause shown, specific minimum  
22 standards may be substituted by alternate, equivalent standards, approved by the  
23 department.

24           2. Take such action and make ~~such~~ reasonable rules ~~and regulations~~ for the  
25 regulation of early childhood services ~~as may be~~ necessary to carry out the  
26 purposes of this chapter and entitle the state to receive aid from the federal  
27 government.

28           3. Authorize a governmental unit to:

29           a. Inspect ~~any home or facility~~ the premises for which a license, self-declaration,  
30 or registration document is applied ~~for~~ or issued under this chapter; and

- 1           b. Certify to the department that the ~~home or facility~~ premises of a program,  
2                     holder of self-declaration, or registration document meets the requirements of  
3                     this chapter and the minimum standards prescribed by the department.

4           **SECTION 19. AMENDMENT.** Section 50-11.1-09 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **50-11.1-09. Revocation of license, self-declaration, or registration document.**

- 7           1. The department may revoke the license, self-declaration, or registration document  
8                     of any early childhood ~~facility or the registration document of any in-home~~ services  
9                     provider upon proper showing of any of the following:
- 10           a. Any of the applicable conditions set forth in ~~section~~ sections 50-11.1-04,  
11                     50-11.1-06, and section 7 of this Act as prerequisites for the issuance of the  
12                     license, self-declaration, or registration document no longer exist.
- 13           b. The licensee, holder of a self-declaration, or registrant is no longer in  
14                     compliance with the minimum standards prescribed by the department.
- 15           c. The license, self-declaration, or registration document was issued upon  
16                     fraudulent or untrue representation.
- 17           d. The licensee, holder of a self-declaration, or registrant has violated any rules  
18                     of the department.
- 19           e. The licensee ~~or,~~ holder of a self-declaration, registrant, or a household  
20                     member of a home out of which early childhood services are provided has  
21                     been found guilty of, or pled guilty to, an offense ~~determined by the~~  
22                     department ~~to have~~ determines has a direct bearing upon ~~a person's~~ an  
23                     individual's ability to serve the public as a licensee, a holder of a  
24                     self-declaration, or a registrant.
- 25           f. The licensee, holder of a self-declaration, or registrant has been convicted of  
26                     any offense and the department, acting pursuant to section 12.1-33-02.1, has  
27                     determined that the ~~licensee~~ individual has not been sufficiently rehabilitated.
- 28           g. The department may consider the early childhood services history of the  
29                     licensee, holder of a self-declaration, or registrant in determining revocation of  
30                     a license, self-declaration, or in-home registration document.

1           2.    The department shall notify, in writing, the parent, ~~guardian, or custodian~~ of each  
2                    child receiving ~~care in~~ early childhood services from the facility early childhood  
3                    services provider that is the subject of the issuance of a revocation notice.

4           **SECTION 20. AMENDMENT.** Section 50-11.1-10 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **50-11.1-10. Denial or revocation of license, self-declaration, or registration**  
7 **certificate document - Administrative hearing.** Before the department may deny any  
8 application for a license, self-declaration, or registration certificate document under the  
9 provisions of this chapter may be denied or before revocation of the department may revoke  
10 any license, self-declaration, or registration certificate may take place, written charges as to  
11 document, the department shall provide a written notice to the applicant, licensee, or holder of  
12 the self-declaration or registration document of the reasons therefor must be served upon the  
13 applicant, licensee, or registrant for the denial or revocation. The applicant, licensee, holder of  
14 a self-declaration, or registrant ~~has the right to~~ may request an administrative hearing  
15 appealing the denial or revocation in the manner provided in chapter 28-32 ~~if written.~~ The  
16 applicant, licensee, holder of a self-declaration, or registrant shall make a request for the  
17 hearing is made to the department within ten days after service receipt of the written charges  
18 notice of denial or revocation from the department.

19           **SECTION 21. AMENDMENT.** Section 50-11.1-11 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **50-11.1-11. Public agency purchase of early childhood services.** No agency of  
22 state or local government may purchase early childhood services, including care provided by or  
23 in the home of a relative, unless the early childhood ~~facility or early childhood services~~  
24 ~~attendant program~~ program is licensed, registered, or approved by the department.

25           **SECTION 22. AMENDMENT.** Section 50-11.1-11.1 of the North Dakota Century Code  
26 is amended and reenacted as follows:

27           **50-11.1-11.1. Resource and referral ~~program~~ services - Authority of department**  
28 **to make grants - Federal funds - ~~Program components~~ Components.**

29           1.    The department may make grants to public and private nonprofit entities for the  
30                    planning, establishment, expansion, improvement, or operation of early childhood  
31                    services. Public or private entities may apply to the department for funding.

- 1 Applicants shall apply for ~~such~~ grants on forms provided by the department.
- 2 Applications for grants using funds received by the state under subsection 2 must
- 3 include assurances that federal requirements have been met.
- 4 2. The department shall submit an application annually to the United States secretary
- 5 of health and human services for the purpose of obtaining the state's allotment of
- 6 funds authorized under chapter 8 of title VI of the Omnibus Budget Reconciliation
- 7 Act of 1981 [42 U.S.C. 9871-9877] or under any subsequent federal law providing
- 8 funding for child care and development programs.
- 9 3. Each ~~program must~~ entity providing early childhood resource and referral services
- 10 shall identify all existing related early childhood services through information
- 11 provided by all relevant public and private entities in the areas of service and must
- 12 develop a resource file of ~~the~~ these services which must be maintained and
- 13 updated at least quarterly. The services must include early childhood services ~~and~~
- 14 ~~service providers as defined as identified~~ in section 50-11.1-02.
- 15 4. Each ~~program~~ entity providing early childhood resource and referral services ~~must~~
- 16 shall establish a referral process that responds to parental needs for information,
- 17 fully ensures the confidentiality of records and information as required under
- 18 subsection ~~3~~ 4 of section 50-11.1-07, affords parents maximum access to all
- 19 referral information, and includes telephone referral available for no less than
- 20 twenty hours per week and access via the internet. Each ~~program~~ entity shall
- 21 publicize its services through popular media sources, agencies, employers, and
- 22 other appropriate methods.
- 23 5. All early childhood services resource and referral ~~programs must~~ entities shall
- 24 maintain documentation of the number of calls and contacts ~~to the program. A~~
- 25 ~~program~~ received and may collect and maintain the following information:
- 26 a. Ages of children served.
- 27 b. Time category of child care request for each child.
- 28 c. Special time category, such as nights, weekends, or swing shift.
- 29 d. The reason ~~that~~ the child care is needed.
- 30 6. Each ~~program must~~ early childhood services resource and referral entity shall
- 31 have available, as an educational aid to parents, information on available parent,

1 early childhood, and family education programs in the community and information  
2 on aspects of evaluating the quality and suitability of early childhood services,  
3 including licensing regulation, financial assistance availability, child abuse  
4 reporting procedures, and appropriate child development information.

5 7. A ~~program may~~ child care resource and referral entity shall provide technical  
6 assistance to existing and potential providers of all types of early childhood  
7 services and to employers. This assistance must include:

8 a. Information on all aspects of initiating new early childhood services, including  
9 licensing, zoning, program and budget development, and assistance in finding  
10 information from other sources;

11 b. Information and resources which help existing early childhood service  
12 providers to maximize their ability to serve the children and parents of their  
13 community;

14 c. Dissemination of information on current public issues affecting the local and  
15 statewide delivery of early childhood services;

16 d. Facilitation of communication between existing early childhood service  
17 providers and child-related services in the community served;

18 e. Recruitment of licensed providers; and

19 f. Options, and the benefits available to employers utilizing the various options,  
20 to expand child care services to employees.

21 8. Services prescribed by this section must be designed to maximize parental choice  
22 in the selection of early childhood services and to facilitate the maintenance and  
23 development of such services and resources.

24 **SECTION 23. AMENDMENT.** Section 50-11.1-12 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **50-11.1-12. Violation of chapter or ~~regulations~~ rules - Injunction.** The department  
27 may seek injunctive action against an early childhood ~~facility~~ program, or holder of a  
28 self-declaration, or in-home registration document in the district court through proceedings  
29 instituted by the attorney general on behalf of the department if:

30 1. There is a violation of this chapter or a rule adopted ~~thereunder~~ under this chapter;

31 or

- 1           2.    An early childhood ~~facility~~ program or holder of a self-declaration, or in-home  
2                   registration document, after notice and opportunity for hearing on the notice of  
3                   noncompliance, or on the resumption of the fiscal sanction, or after administrative  
4                   hearing confirming and upholding the fiscal sanction does not pay a properly  
5                   assessed fiscal sanction in accordance with section 50-11.1-07.6.

6           **SECTION 24. AMENDMENT.** Section 50-11.1-13.1 of the North Dakota Century Code  
7 is amended and reenacted as follows:

8           **50-11.1-13.1. Penalty for provision of services - When applicable.** ~~A person~~ An  
9 individual who provides early childhood services to any child, other than a child who is a  
10 member of that ~~person's~~ individual's household, is guilty of a class B misdemeanor if:

- 11           1.    Those services are provided after that ~~person~~ individual is required to register  
12                   ~~under section 12.1-32-15~~ as a sexual offender;
- 13           2.    The department has denied that ~~person's~~ individual's application for licensure, or  
14                   self-declaration, or registration to provide early childhood services or has revoked  
15                   that ~~person's~~ individual's license, self-declaration, or ~~certificate of registration~~  
16                   document to provide early childhood services following a finding that services are  
17                   required under chapter 50-25.1 and that finding has become final or has not been  
18                   contested by that ~~person~~ individual; or
- 19           3.    The ~~person~~ individual allows another ~~person~~ individual to be in the presence of the  
20                   child receiving ~~the~~ early childhood services if that other ~~person~~ individual is  
21                   required to register ~~under section 12.1-32-15~~ as a sexual offender or has had an  
22                   application for licensure, self-declaration, or registration to provide early childhood  
23                   ~~service~~ services denied or revoked by the department following a finding that  
24                   services are required under chapter 50-25.1 and that finding has become final or  
25                   has not been contested by that other ~~person~~ individual.

26           **SECTION 25. REPEAL.** Section 50-11.1-03.1 of the North Dakota Century Code is  
27 repealed.

28           **SECTION 26. EXPIRATION DATE.** The increase in the penalty identified in  
29 subsection 7 of section 3 of this Act is effective through July 31, 2011, and after that date is  
30 ineffective.