

**CHAPTER 75-03-36
LICENSING OF CHILD-PLACING AGENCIES**

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SECTION 1. Section 75-03-36-01 is amended as follows:

75-03-36-01. Definitions – Application.

1. ~~_____~~The terms used in this chapter have the same meaning as in North Dakota Century Code chapter 50-12. In addition, as used in this chapter:
 - a. ~~1.~~ "Adoption disruptiondissolution" means an interruptiona termination of parental rights of an adoption prior toadoptive parent after finalization in which the child is returned to foster care or placed with another familyof the same adoption.
 - b. ~~2.~~ "Adoption servicesplacement" is a coordinated program of services for the child, the child's birth parents, and the adoptive applicants and adoptive parentsmeans the formal date on which a child, who is legally free for adoption, is placed for the purpose of adoption.
 - c. ~~3.~~ "Authorized agentAdoption placement disruption" means the human service zone, unless another entity is designated by the departmentan interruption of an adoption after formal placement and prior to finalization in which the child is returned to foster care or placed with another family.
 4. "Client" means a child, birth parent, foster care provider, adoptive parent, or adopted individual.
 - d. ~~5.~~ "Department" means the North Dakota department of health and human services.
 - e. ~~6.~~ "Family foster homeFoster care provider" means an occupied private residence in whichindividual living in a private dwelling who maintains a license, certification, or approval from the department to provide family foster care forto children is regularly provided by the owner or lessee of the home to no more than four children, unless all the children in foster care are related to each other by blood or marriage or unless the department approves otherwise for the placement of siblings, in which case the limitation in this subsection does not apply. For the purposes of this subsection, foster care for children applies to those agencies placing children that are in the custody of a human service zone, a tribe, or the state

in family foster homes in need of temporary safety services when placed out of the home.

- ~~f.~~ "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.
- ~~g-7.~~ "Legal risk adoptive placement" means placement of a child with a prospective adoptive family when the child is not legally free for adoption.
- ~~h-8.~~ "Life book" means a tool used with children in out-of-home care and children who have been adopted to record memories and life events as they move to different placements.
- 9. "Nonemployee" means an individual who is not compensated by the child-placing agency, such as a volunteer or student intern providing specific services under the supervision of an employee.
- ~~i-10.~~ "Permanent adoption record" means all paper, or electronic records, and identifying and nonidentifying information related to an adopted individual, birth siblings, birth parents, or adoptive parents which pertains to an adoption.
- ~~j-11.~~ "Resident child-placing agency" means a child-placing agency that maintains an office within this state.
- ~~2.~~ In these rules, the requirements for licensure for a child-placing agency apply to a new application for licensure as well as to an application for relicensure unless the context otherwise specifically implies.

History: Effective April 1, 2010; amended effective April 1, 2016; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-06-01.4, 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-06-01.4, 50-11-00.1, 50-12-02

SECTION 2. Section 75-03-36-02 is amended as follows:

75-03-36-02. Child-placing agency Application for license.

- ~~1.~~ Application for a child-placing agency license must be made on an application form provided by A person may not apply for a license to operate a child-placing agency under this chapter until the department has reviewed the need for the additional child-placing agencies. To enable the

department to make a determination of need for a new child-placing agency, the potential applicant shall submit an initial request for application, including the following documentation and information, to the department:

a. A detailed plan for the operation of the proposed child-placing agency which includes:

(1) The purpose of the child-placing agency;

(2) The number, gender, and age range of the children to be served;

(3) A description of specific programs offered by the prospective child-placing agency;

(4) A written placement policy, forms, and a description of the legal procedures which will be used to obtain the authority to place the child;

(5) A written statement of the fees that will be charged for each service;

(6) The geographic area the prospective child-placing agency will serve; and

(7) A proposed budget.

b. A detailed written description and findings that document the reasons why the unserved children under subsection a may not be served in another child-placing agency.

c. Data to support that existing child-placing agencies placement resources are not adequate to meet the needs of North Dakota children.

2. ~~At the~~Upon receipt of an initial request for application, the applicant~~department shall submit a written purpose and policy statement for the general operation and management of the child-placing agency. The statement must include:~~

a. The purpose of the child-placing agency, the geographic area the agency expects to serve, the ages of children to be placed, and any other specific factors regarding the children to be placed or the homes in which the children will be placed~~Review the potential applicant's information and may ask for additional materials or information necessary for evaluation of need purposes;~~

- b. ~~A written placement policy, including parental agreement forms, and a description of the legal procedures which will be used to obtain the authority to place the child~~Respond in writing within ninety days of receipt of all required information from the potential applicant;
 - c. ~~Send written notice of determination of need. The notice must state the specific reason for the determination. If the department determines there is need for an additional licensed child-placing agency, the notice must be accompanied by an authorization for the persons to apply for a license; and~~
 - e.d. ~~A written statement of the fees that will be charged for each service~~Inform the potential applicant of what is required to move forward with the application process.
- 3. An application for a child-placing agency license must be submitted in the form and manner prescribed by the department, which will initiate a document-based review or onsite visit at least every two years.
- 4. For purposes of initial licensure, the child-placing agency shall demonstrate that it has sufficient predictable income to operate its program of services and, upon relicensure, shall demonstrate ongoing financial stability.
- 5. ~~Upon receipt of the application for license or renewal of license, the department shall conduct a licensing study or a license review to determine if the applicant meets all applicable requirements for licensure.~~
- 4.6. After completion of a licensing study, the department shall issue a license to any applicant that meets all requirements for licensure.
- 5.7. The department shall renew the license on the expiration date of the previous year's license if:
 - a. The licensed child-placing agency makes written application for renewal prior to the expiration date of its current license;
 - b. The licensed child-placing agency continues to meet all requirements for licensure at the time of the relicensing study; and
 - c. The licensed child-placing agency submits a copy of its yearly budget and annual audit of expenditures.
- 6.8. If the department determines that an application or accompanying information is incomplete or erroneous, the department shall notify the applicant of the specific deficiencies or errors, and the applicant shall

submit the required or corrected information. The department may not issue or renew a license until it receives all required or corrected information.

- ~~7. The licensure requirements of this chapter do not apply to human service zones nor does this chapter apply to child-placing activities undertaken by human service zones.~~

History: Effective April 1, 2010, amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-02

SECTION 3. Section 75-03-36-03 is amended as follows:

75-03-36-03. License denial or revocation and denial.

1. ~~After written notice to the applicant or licensee, the department may deny or revoke a~~A child-placing agency license upon finding that may be denied or revoked under the terms and conditions of chapter 50-12 of the North Dakota Century Code or by failing to meet the minimum requirements of this chapter.

2. ~~If the department decides to deny or revoke a license, the department shall notify the child-placing agency in writing of its decision and the reasons for denial or revocation, including:~~
 - a. The applicant or the licensee is not in compliance with all licensure requirements; or

 - b. The applicant or the licensee has made a material misrepresentation to the department regarding its operations ~~or facility; or~~

 - c. ~~The applicant, licensee, or a member of the applicant's or licensees staff has been named as the subject in a child abuse or neglect confirmed decision; has been convicted of a crime that the department has determined as having a direct bearing on the applicant's, licensee's, or staff member's ability to serve the public; or has been convicted of another offense and has not been determined rehabilitated.~~

- 2.3. If an action to revoke a license is appealed, the licensee may continue the operation of the ~~facility~~child-placing agency pending the final administrative determination or until the license expires, whichever occurs first; provided, however, that this subsection does not limit the actions the department may take pursuant to North Dakota Century Code section 50-12-11.

History: Effective April 1, 2010; amended effective April 1, 2022; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-12-10, 50-12-11, 50-12-12

SECTION 4. Section 75-03-36-04 is amended as follows:

75-03-36-04. Suspension review or correction.

1. AThe department may require immediate suspension of a child-placing agency license.
 - a. A child-placing agency may submit a written request for review to the department if its license is suspended. The written request must include a statement of the disputed facts and the name, address, and telephone number of the ~~person~~individual to be contacted regarding the review.
 - b. The request for review must be received by the department within five working days after the child-placing agency receives written notice of the suspension. The child-placing agency may submit supporting documents or affidavits for the department to consider during its review.
 - c. The department shall complete its review of the files, records, and other information received from the child-placing agency and issue its decision within thirty days after the department receives the child-placing agency's request for review. ~~The child-placing agency may submit supporting documents or affidavits for the department to consider during its review. The department shall prepare a written decision upon the files, records, and other information received from the child-placing agency which was considered during its review.~~
 - d. The department's decision constitutes the final determination of the suspension. If the department concludes that the child-placing agency made a false or misleading report to the department, the department will issue a notice of revocation of the child-placing agency's license.
2. The department may require immediate correction of a violation of North Dakota Century Code chapter 50-11 or this chapter. The child-placing agency has twenty days to correct any violations. All time periods under this section commence on the third day after the department mails notice of the correction order to the child-placing agency. Upon written request by the child-placing agency and upon showing need for an extension created by circumstances beyond the control of the child-placing agency and documentation that the child-placing agency has diligently pursued correction of the violation, the department may grant extensions of time to correct violations.

3. The department may inform the public of a child-placing agency correction order or suspension status.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-12-11

SECTION 5. Section 75-03-36-05 is amended as follows:

75-03-36-05. Resident child-placing agency office requirements.

A resident child-placing agency shall maintain a physical office within the state, including an in-state mailing address and an in-state telephone number. The resident child-placing agency must ensure that ~~the telephone is answered during regular business hours, or has messaging capabilities~~at minimum the child placement coordinator maintains an on-site in-state presence, unless otherwise approved by the department.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-02.1

SECTION 6. Section 75-03-36-06 is amended as follows:

75-03-36-06. Governance and responsibilities.

1. The governing body of the~~Each~~ child-placing agency shall have a governing body responsible for the overall operations, policies, activities, and practice of the child-placing agency. The governing body shall:
 - a. ~~Be responsible for establishing policies, determining programs, and guiding~~Define a mission statement.
 - b. Define services provided by the child-placing agency and clearly state which services are provided directly by the child-placing agency and which services are to be provided in collaboration with a referral source or other appropriate agencies.
 - c. Define the volume of clients, including children placed, birth parents, foster care providers, or prospective adoptive parents the child-placing agency will serve each year. A child-placing agency shall serve no less than twenty-five clients per year and place no less than five children per year, unless the child-placing agency was previously licensed prior to April 1, 2024, and otherwise approved by the department.
 - d. Approve developed policies for child-placing agency operations in compliance with law, administrative rule, and policy as defined by

the department, inclusive of administration, program, personnel policy, and procedure to address non-discrimination. Personnel policies must include recruitment and retention of employees to operate the child-placing agency and expectations of employees and nonemployees, detail job descriptions for each position, and ensure a process to review policies and procedures with employee participation at least every five years.

- e. Guide the child-placing agency's development and providingprovide leadership.
- b.f. Be composed of at least three members, none of whom are family members of employees of; a list of the names and contract information of members of the governing body must be maintained and submitted to the department during each licensing period. Each board member annually shall disclose conflicts of interest. Members of the board may not be family or have conflicts of interest with the child-placing agency administrator or employees with budget or accounting duties.
- e.g. Meet as often as necessary, but at least four times a year with a quorum of its members present at the meetingsevery six months.
- h. Maintain records of the governing body's meetings.
- d.i. Develop and review policies for board member selection criteria and rotation of its members of the governing body.
- e.j. Ensure that the child-placing agency is funded, housed, staffed, and equipped in a manner required for the provision of services.
- f.k. Employ a qualified administrator and delegate responsibility to that administrator for the administration of the child-placing agency.
- g.l. Regularly evaluateEvaluate the performance of the administrator at least annually.
- h.m. Approve the child-placing agency's annual budget of anticipated income and expenditures necessary to provide services described in the child-placing agency's statement of purpose.
- i.n. Review a quarterly summary of revenues and expenditures as compared with the child-placing agency's approved annual budget.
- j. Arrange for an annual financial audit to be prepared by a certified public accountant or a licensed public accountant and submitted to

~~the department with the child-placing agency's request for relicensure~~Provide the most recent fiscal year-end financial records to the department, upon request.

~~k. Establish personnel policies for the selection and retention of staff necessary to operate the child-placing agency.~~

~~l.o. Ensure that the child-placing agency has written policies and practices conducive to recruitment, retention, training, staff development, effective performance by qualified personnel, job descriptions for each position, and review of personnel policies and practices with staff participation at least every five years~~prepares an annual budget based on the assessment of child-placing agency program priorities and a realistic appraisal of anticipated funding, including reimbursement for services.

~~p. Ensure the child-placing agency submits a copy of its budget to the department with a cost breakdown of budget items utilized to determine fees for services.~~

~~q. If the child-placing agency increases fees for adoption services, ensure the child-placing agency submits justification of the cost increase to the department before charging an increased rate.~~

~~m.r. Request formal, Receive an initial orientation from the administrator on behalf of to inform~~ new board members of the child-placing agency's goals, programs, and methods of operation.

~~n.s. Maintain attendance records and minutes of the governing body's meetings~~Ensure the child-placing agency employs or retains legal representation to represent the child-placing agency in legal matters and to assure prompt resolution of legal questions for children in the legal custody of the child-placing agency.

2. ~~Each~~The child-placing agency shall provide the department with the names and addresses of the members of the governing body within thirty days after the members' selectionhave sufficient liability insurance to protect itself, employees, and children entrusted to its care from serious financial jeopardy.

History: Effective April 1, 2010, amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-02

SECTION 7. Section 75-03-36-07 is amended as follows:

~~75-03-36-07. Responsibilities of the child-placing agency~~

administratorAdministrator.

1. The governing body of the child-placing agency shall designate an administrator and shall clearly define, in writing, the responsibilities of the administrator.

2. The administrator shall:
 - a. Plan and coordinate with the governing body the development approval of new policies and procedures governing the child-placing agency's services related to personnel, program, and administrative operations and shall maintain the policies and procedures required by this chapter.
 - b. Ensure that the governing body is kept informed of matters affecting the child-placing agency's finances, operation, and provision of services.
 - c. Ensure employment of qualified ~~staff and the administration of the child-placing agency's personnel policies~~employees.
 - d. Ensure that the child-placing agency and its services are made known to the community.
 - e. ~~Maintain the policies and procedures required by this chapter in written form.~~
 - f. ~~—~~ Maintain a current organizational chart showing the child-placing agency's lines of accountability and authority.
 - g.f. Maintain a records retention policy that ensures adoption files are maintained permanently and adoption files which do not result in an adoption, adoption search files, and foster care files are retained according to applicable foster care regulations child-placing agency retention schedule.

- ~~2.3.~~ The child-placing agency, under the administrator's direction, shall maintain a record for each client. ~~A~~The client's record must be kept current from the point of intake to termination of service and must contain information relevant to the provision of services.

- ~~3.4.~~ The child-placing agency administrator ~~who delegates responsibility for program development shall delegate those responsibilities to qualified staff members~~shall assure adequate supervision is provided to all employees and nonemployees working at the child-placing agency.

History: Effective April 1, 2010; amended effective January 1, 2012; April 1, 2024.

General Authority: NDCC ~~50-11-03~~, 50-12-05
Law Implemented: NDCC ~~50-1250-12-02~~

SECTION 8. Section 75-03-36-08 is repealed:

75-03-36-08. Financial structure.

[Repealed effective April 1, 2024]

- ~~1. For purposes of initial licensure, the child-placing agency shall demonstrate that it has sufficient predictable income to operate its program of services and, upon relicensure, shall demonstrate ongoing financial stability.~~
- ~~2. The child-placing agency shall prepare an annual budget based on the assessment of agency program priorities and a realistic appraisal of anticipated funding, including reimbursement for services. The child-placing agency shall submit a copy of its budget to the department with a cost breakdown of budget items utilized to determine fees for services.~~
- ~~3. If the child-placing agency increases fees for adoption services, the agency shall submit a copy of the cost analysis to the department to justify the increase.~~
- ~~4. The child-placing agency shall maintain a bonding program as protection for its governing body, staff, clients, funds, and property. The child-placing agency shall review the insurance program annually to assure adequate agency coverage.~~

~~**History:** Effective April 1, 2010.~~

~~**General Authority:** NDCC 50-12-05~~

~~**Law Implemented:** NDCC 50-12~~

SECTION 9. Section 75-03-36-09 is amended as follows:

75-03-36-09. Personnel files.

- ~~1. The child-placing agency shall have a personnel~~maintain an individual file for each employee that includes the following. The file must include:
 - ~~4.a.~~ Inventory detailing first and last date of employment, reason employment ended, training totals per year, and performance evaluation dates.
 - ~~b.~~ The application for employment, including history~~a record of previous employment.~~
 - ~~2.c.~~ Reference letters, telephone notes, or both from former employers

~~and personal~~Documentation of information obtained from an employee's references, if applicable.

~~3.d. Applicable professional credentials and certifications~~Verification of any required license or qualification necessary for the position assigned to the employee.

~~e.~~ A job description specifying the employee's role and responsibilities.

~~f.~~ A statement signed by the employee acknowledging the confidentiality policy.

~~4.g.~~ Annual performance evaluations.

~~5.h.~~ Orientation and training records consisting of the name of presenter, date, topic, and length of training.

~~6.~~ Record of salary and salary adjustments.

~~7.~~ Employee's first and last dates of employment.

~~8.i. Reason employment ended~~Evidence of the employee having read and received a copy of the law and child-placing agency procedures requiring the reporting of suspected child abuse and neglect, chapter 50-25.1 of the North Dakota Century Code, initially upon hire and annually thereafter.

~~9.i. Copies~~Results of a fingerprint-based criminal history record investigation results check and child abuse and neglect index findings record.

2. The child-placing agency shall maintain an individual file on each nonemployee. The file must include:

a. Personal identification information.

b. Results of fingerprint-based criminal background checks, motor vehicle operator's license record, as applicable, and child abuse or neglect record.

c. Description of duties.

d. Orientation and training records.

e. Evidence of the nonemployee having read and received a copy of the law and facility procedures requiring the reporting of suspected

child abuse and neglect, North Dakota Century Code chapter 50-25.1, initially upon placement and annually thereafter.

f. A statement signed by the nonemployee acknowledging the confidentiality policy.

3. The child-placing agency shall adopt a policy regarding the retention of employee and nonemployee files.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-11-05, 50-12-03, 50-12-05

SECTION 10. Section 75-03-36-10 is amended as follows:

75-03-36-10. StaffEmployee functions and qualifications.

1. ~~The child-placing agency shall employ or contract with staff with sufficient qualifications to enable them to perform the agency's fiscal, clerical, and maintenance functions.~~

2. ~~The child-placing agency shall employ or contract with staff~~service providers ~~to perform the agency's administrative, supervisory, and placement services~~necessary child-placing agency functions. These ~~staff~~Required employees ~~and their qualifications, unless otherwise approved by the department, are as follows~~ include:

a. Administrator. ~~The administrator shall provide for the general management and administration of the child-placing agency in accordance with the licensing requirements and policies of the child-placing agency's governing body. The administrator must have a bachelor's degree~~ in business or public administration, social work, behavioral science, or a human services field and have a minimum of four years of related professional experience in human services, at least two of which have been in administration including financial management, or must be an individual otherwise qualified and serving the child-placing agency as an administrator prior to April 1, 2010.

b. Supervisor. ~~The placement supervisor shall supervise, evaluate, and monitor the work progress of the placement staff~~employee. ~~The placement supervisor must be a licensed certified social worker~~ have a bachelor's degree in a behavioral science field and must be licensed as required by the field of practice and have a minimum of two years of experience in supervision of child placement workers or in child placement, or must have a master's degree in a human service-related behavioral science field from an accredited school,

~~and a minimum of two years of experience in supervision of child placement workers or in child placement, or must be an individual otherwise qualified and serving the child-placing agency as a placement supervisor prior to April 1, 2010 and must be licensed as required by the field of practice.~~

- c. Child placement coordinator. The child placement ~~worker~~ coordinator shall perform intake services; provide ~~casework or group work services, or both,~~ case management for children and families; recruit and assess foster and adoptive homes; and plan and coordinate resources affecting for children and families. The child placement ~~worker~~ coordinator must behave a bachelor's degree in a behavioral science field and must be licensed certified social worker or a licensed social worker as required by the field of practice.

~~3.2.~~ If the child-placing agency has no more than five child placement supervisor coordinators employed, the child placement worker must meet the education and experience requirements of the placement child-placing agency shall employ a supervisor and may not contract with a supervisor.

~~4.~~ Staff serving as child placement workers or child placement supervisors must meet the above-stated education and experience requirements or be excused from those requirements found in North Dakota Century Code chapter 43-41 on the licensing of social workers.

~~5.3.~~ Placement ~~worker~~ Child-placing agency shall establish a caseload standard. The child placement coordinator caseload must ~~be limited to~~ ensure the placement ~~worker~~ coordinator is able to make all the required contacts with the child, biological parent, foster care provider, and adoptive families; ~~adopted adults~~ adoption search clients; and collateral parties.

History: Effective April 1, 2010; amended effective January 1, 2012; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-03

SECTION 11. Section 75-03-36-11 is amended as follows:

75-03-36-11. Staff Employee professional development.

1. The child-placing agency shall ensure that the placement-supervisor and child placement workers coordinator receive at least ten hours of training, as applicable to their position, in current foster and adoptive placement practices during each full year of employment per year with evidence of completion in the employee file. Activities related to orientation and supervision of the ~~staff member~~ employees and routine tasks are not training activities for the purpose of this requirement.

2. Prior to a new employee working independently, the child-placing agency shall provide orientation training to the employee covering all of the following areas, with evidence of completion present in the employee file:
 - a. Child-placing agency philosophy and program goals;
 - b. Administrative procedures, policies, and protocols;
 - c. Personnel policies;
 - d. Expected employee conduct with coworkers and clients;
 - e. Protocol for identifying and reporting child abuse and neglect; and
 - f. Disaster plan.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-03, 50-12-05

SECTION 12. Section 75-03-36-12 is repealed:

75-03-36-12. Employee background checks.

[Repealed effective April 1, 2024]

- ~~1. Criminal history record investigations and child abuse and neglect index investigations must be completed for all child-placing agency employees who have direct contact with clients. The investigations must be completed prior to an employee's unsupervised contact with clients.~~
- ~~2. Criminal history record investigations must be a fingerprint based check completed against a national database.~~
- ~~3. Child abuse and neglect index investigations must be obtained from each state where the applicant has resided in the past five years. After the initial investigation, a child abuse and neglect index investigation must be repeated annually in this state and in the employee's state of residence for continued employment.~~
- ~~4. A subsequent criminal history record investigation is not required for an employee who maintains continuous employment at the child-placing agency unless the child-placing agency or the department determines that a need exists to conduct a subsequent investigation.~~
- ~~5. If an employee changes employment from one licensed child-placing agency to another licensed child-placing agency within a year of the~~

~~completion of a criminal history record investigation and provides documentation of the individual's background check clearance, a new criminal history record investigation will not be required.~~

~~History: Effective April 1, 2010; amended effective April 1, 2016.~~

~~General Authority: NDCC 50-12-05~~

~~Law Implemented: NDCC 50-12~~

SECTION 13. Section 75-03-36-13 is amended as follows:

75-03-36-13. Criminal Background checks and criminal conviction - Effect on licensure.

1. The department requires an initial fingerprint-based criminal background check for each child-placing agency owner, employee, or nonemployee with direct contact with clients. An initial fingerprint-based criminal background check is also required for each prospective adoptive parent, foster care provider, or any adult household member living in the prospective adoptive parent or foster care provider's home. Subsequent fingerprint-based background checks are not required for an employee, nonemployee, prospective adoptive parent, foster care provider, or any adult household member who maintains continuous employment, licensure, or affiliation with the child-placing agency unless the child-placing agency or the department determines a need exists to conduct a subsequent investigation.
2. The department requires a child abuse and neglect index check as part of the initial fingerprint-based criminal background check. An annual child abuse and neglect index check must be completed and placed in the personnel file for each employee and nonemployee or in the client file for each prospective adoptive parent, foster care provider, or any adult household member living in the prospective adoptive parent or foster care provider's home.
3. A prospective adoptive parent, foster care provider, or any adult household member living in the prospective adoptive parent or foster care provider's home may not be licensed, certified, or approved for the adoption of a child, or a child-placing agency owner, employee, or nonemployee may not be known to have, and a child-placing agency may not employ an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults - threats - coercion - harassment; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or 19-03.1, Uniform Controlled Substance Act, if class A,

B, or C felony under that chapter, or in North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-20-12.3, sexual extortion; 12.1-21-01, arson; 12.1-22-01, robbery, if a class A or B felony under section 2 of that section; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 12.1-31-07, endangering an eligible adult - penalty; 12.1-31-07.1, exploitation of an eligible adult - penalty; 14-09-22, abuse of a child or 14-09-22.1, neglect of a child;

- b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
- c. An offense, other than an offense identified in subdivision a or b, if the department determines that the individual has not been sufficiently rehabilitated.
 - (1) The department will not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment, without a subsequent charge or conviction, for all other criminal convictions has elapsed.
 - (2) An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.

2.4. The department has determined that the offenses enumerated in subdivisions a and b of subsection ~~43~~ have a direct bearing on the individual's ability to serve the public in a capacity as an adoptive home placement, a foster care provider, and as an owner ~~or~~, employee, or nonemployee of a child-placing agency.

3.5. In the case of ~~a misdemeanor simple assault~~ offenses described in North Dakota Century Code section 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07, harassment; 12.1-17-07.1, stalking; 12.1-22-01, robbery, if a class C felony; or 12.1-31-07.1, exploitation of an eligible adult – penalty, if a class B felony under subdivision c of subsection 2 of that section or a class B felony under

subdivision d of subsection 2 of that section; or chapter 19-03.1, Uniform Controlled Substance Act, if a class A, B, or C felony; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, ~~without subsequent charge or conviction~~ for all other criminal convictions. The department may not be compelled to make such determination.

4.6. The department may deny a request for a criminal background check for any individual who provides false or misleading information about the individual's criminal history.

~~5. The department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department may conduct a nationwide name-based criminal history record investigation in any state in which the person lived during the eleven years preceding the signed authorization for the background check.~~

6.7. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:

- a. Common knowledge in the community;
- b. Acknowledged by the individual; or
- c. Discovered by the child-placing agency, authorized agent, or department as a result of a background check.

8. The department has authority to request a fingerprint-based criminal background check whenever an owner, employee, or nonemployee of the child-placing agency, a prospective adoptive parent, foster care provider, or any adult household member living in the prospective adoptive parent or foster care provider's home is known to have been involved in, charged with, or convicted of an offense.

9. Review of fingerprint-based criminal background check results.

- a. If an individual disputes the accuracy or completeness of the information contained in the fingerprint-based criminal background check required under this chapter, the individual may request a review of the results by submitting a written request for review to the department within thirty calendar days of the date of the results. The

individual's request for review must include a statement of each disputed item and the reason for the dispute.

b. The department shall assign the individual's request for review to a department review panel.

c. An individual who has requested a review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.

d. The department shall notify the individual of the department's final decision in writing within sixty calendar days of receipt of the individual's request for review.

e. The final decision of the review panel may not be appealed.

10. The child-placing agency shall make an offer of employment to an employee or an offer of placement to a nonemployee conditional upon the individual's consent to complete required background checks. While awaiting the results of the required background check, the child-placing agency may choose to provide training and orientation to an employee. However, until the completed and approved required background check results are placed in the employee file, the employee may only have supervised interaction with clients.

11. The department may excuse an owner, employee, or nonemployee of a child-placing agency, prospective adoptive parent, foster care provider, or any adult household member living in the prospective adoptive parent or foster care provider's home from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If an owner, employee, or nonemployee of a child-placing agency, prospective adoptive parent, foster care provider, or any adult household member living in the prospective adoptive parent or foster care provider's home is excused from providing fingerprints, the department may conduct a nationwide name-based criminal history record investigation in any state in which the individual lived during the eleven years preceding the signed authorization for the background check.

~~7~~-12. A child-placing agency shall establish written policies and engage in practices that conform to those policies to effectively implement this section, and North Dakota Century Code sections 50-11.3-02 and 50-12-03.2.

~~8~~-13. A child-placing agency shall establish written policies specific to how the child-placing agency will proceed if a current employee or ~~volunteer~~nonemployee is known to have been found guilty of, pled guilty to,

or pled no contest to an offense.

History: Effective April 1, 2010; amended effective April 1, 2016; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11-03, 50-11.3-01, 50-12-05

Law Implemented: NDCC ~~50-12, 50-11.3~~50-11-06.8, 50-11.3-01, 50-12-03.2

SECTION 14. Section 75-03-36-14 is amended as follows:

75-03-36-14. ~~Volunteers~~Nonemployees.

1. A child-placing agency ~~which~~that utilizes ~~volunteers~~nonemployees who work directly with children and families on a regular basis shall:
 - a. Develop and provide a description of duties and ~~specify~~specified responsibilities ~~for volunteer positions~~;
 - b. Require personal references, if applicable;
 - c. Designate ~~a staff member~~an employee to supervise and evaluate ~~volunteers~~nonemployees;
 - d. Develop a plan for orientation and training of nonemployees which includes education on the legal requirements for confidentiality, training in the philosophy of the child-placing agency, and the needs of children and families served by the child-placing agency;
 - e. Maintain documentation that the nonemployee has read and received a copy of the law and child-placing agency procedures requiring the reporting of suspected child abuse and neglect, chapter 50-25.1 of the North Dakota Century Code, initially and annually thereafter;
 - f. Require that a ~~volunteer~~nonemployee sign a statement of confidentiality; and
 - f.g. Require each ~~volunteer~~nonemployee to successfully complete a fingerprint-based criminal history record investigation~~background check~~ and a child abuse and neglect index investigation~~check~~ prior to allowing the ~~volunteer~~nonemployee to have unsupervised contact with children.
2. ~~Volunteers~~Nonemployees may not be used in the place of full-time paid ~~staff~~employees.

History: Effective April 1, 2010; amended effective April 1, 2016; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC ~~50-12~~50-11-05, 50-12-03, 50-12-05

SECTION 15. Section 75-03-36-15 is repealed:

75-03-36-15. Student field placements.

[Repealed effective April 1, 2024]

- ~~1. A child placing agency that accepts students for field placements shall:
 - ~~a. Develop a written plan describing the students' tasks and functions;~~
 - ~~b. Require references from the students' placing institutions;~~
 - ~~c. Designate a staff member to supervise and evaluate the students;~~
 - ~~d. Develop a plan for orientation and training of students in the philosophy of the child placing agency and the needs of children and families served by the child placing agency;~~
 - ~~e. Provide for students to participate in developing and carrying out the case plans for children and families with whom they are working directly;~~
 - ~~f. Require that students sign a statement of confidentiality; and~~
 - ~~g. Require successful completion of criminal history record investigations and child abuse and neglect index investigations prior to allowing students to have unsupervised contact with children.~~~~
- ~~2. Students may not be used in the place of full-time paid staff.~~

~~**History:** Effective April 1, 2010.~~

~~**General Authority:** NDCC 50-12-05~~

~~**Law Implemented:** NDCC 50-12~~

SECTION 16. Section 75-03-36-16 is amended as follows:

75-03-36-16. Child abuse and neglect reporting.

1. The child-placing agency shall follow the mandated procedures for reporting child abuse and neglect as outlined in North Dakota Century Code section 50-25.1-03. Upon hire and annually thereafter, all employees and nonemployees shall certify having read the law requiring the reporting of suspected child abuse and neglect, chapter 50-25.1 of the North Dakota Century Code, and having read and received a copy of the child-placing agency's written child abuse and neglect procedures. All employees and nonemployees are required to report suspected child abuse and neglect.

2. The child-placing agency shall develop policy for handling any suspected incidents of child abuse or neglect involving child-placing agency staff ~~or~~ employee, nonemployee, foster care providers, prospective foster care providers, adult household members, or prospective adoptive parents. These procedures must include:
 - a. A provision that assures that any ~~person~~ individual having knowledge of or reasonable cause to suspect that a child is abused or neglected reports the circumstances to ~~the local human service zone or the department~~ child protection intake;
 - b. A provision for preventing a recurrence of the alleged incident pending ~~investigation~~ an assessment; and
 - c. ~~A provision for rehabilitation of the individual and for evaluating the continued utilization of any~~ Approval from the department that the individual is determined rehabilitated if the ~~child-placing agency staff member or~~ employee, nonemployee, foster care provider, adult household members, or prospective adoptive parent ~~who~~ has been the subject of a confirmed decision in a report of child abuse or neglect or has been convicted of a direct bearing offense.

History: Effective April 1, 2010; amended effective April 1, 2022; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-03, 50-12-05, 50-25.1-03

SECTION 17. Section 75-03-36-16.1 is repealed:

75-03-36-16.1. Adoptive family child abuse and neglect.

[Repealed effective April 1, 2024]

~~A child-placing agency shall not place a child in an adoptive home if a person residing in the adoptive home, except a child placed for adoption, has been the subject of a child abuse or neglect assessment where a confirmed decision was made unless the agency director or supervisor, after making appropriate consultation with persons qualified to evaluate the capabilities of the adoptive parents, documenting criteria used in making the decision, and imposing any restrictions deemed necessary, approves the adoptive assessment; and~~

- ~~1. The adoptive home's resident can demonstrate the successful completion of an appropriate therapy; or~~
- ~~2. The adoptive home's resident can demonstrate the elimination of an underlying basis precipitating the neglect or abuse.~~

History: Effective January 1, 2012; amended effective April 1, 2022.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 18. Section 75-03-36-17 is amended as follows:

75-03-36-17. Critical incident~~Incident and sentinel event~~ reporting.

The child-placing agency shall have written policy outlining the ~~critical incident recording and reporting process to the department, and parent or custodian of the child, if any, when any of the following occurs~~documentation of incidents and sentinel events that occur while a child is in placement. The policy must include:

1. ~~An~~Description of an incident requires the services of~~involving harassment, violence, discrimination, or an unplanned occurrence that resulted or could have resulted in injury to people or damage to property, specifically involving the general public, child in placement, foster care provider, prospective adoptive parents, or child-placing agency employee or nonemployee.~~
2. ~~Description of an incident involving law enforcement, including in the case of a runaway or an absent child;~~ criminal activity, behavior resulting in harm to others, or restraint injury.
- 2-3. ~~A description of a sentinel event as an unexpected occurrence involving death, serious injury or trauma of a child in foster care, including a child placed for adoption, that requires the services of a medical practitioner;~~ psychological injury not related to the natural causes of a client's illness or underlying condition, including any process variation for which a reoccurrence would carry a significant chance of a serious adverse outcome. Sentinel events include serious injury or trauma to a client, attempted suicide by the client, death of a client, or inappropriate sexual contact.
4. ~~A requirement that notification must be made to custodian, parent, or guardian and the department immediately or within one business day.~~
3. ~~Damage to a foster parent's home which could affect compliance with licensing standards, including damage caused by fire, natural disaster, or other incident, which would cause any kind of major structural damage affecting the safety or shelter of the child or children in foster care;~~
4. ~~Extended failures that are not repairable within a twenty-four-hour period, including heating, electrical, plumbing, or safety warning in the foster home or the home in which the child is placed for adoption;~~
5. ~~The death of a child placed in a home by the child-placing agency;~~

6. ~~Any attempt at suicide by a child placed in a foster home, including a child placed for adoption, by the licensed child-placing agency;~~
7. ~~Pregnancy of a child placed in a foster home, including a child placed for adoption;~~
8. ~~Criminal activity by the foster or adoptive parent;~~
9. ~~An assault on a staff person or family foster home member by a foster child that requires medical attention by a medical practitioner;~~
10. ~~Outbreak of a serious communicable disease;~~
11. ~~Any condition requiring closure of the child-placing agency or family foster home; and~~
12. ~~Any behavior involving a foster child, including a child placed for adoption, that results in a serious threatening situation of harm to the family members, staff, or other foster children.~~

History: Effective April 1, 2010; amended effective July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-07

SECTION 19. Section 75-03-36-18 is amended as follows:

75-03-36-18. Emergency Disaster plan.

The child-placing agency shall ~~establish~~have a written ~~emergency disaster~~ plan for responding to potential natural, manmade, and health emergencies, including flood, avalanche, fire, severe weather, loss of water or food supplies, intruder, and lost child clients or staff accommodate emergencies. The disaster plan must includespecify:

1. ~~Designation of crisis intervention leader~~Employee roles and responsibilities;
2. ~~Development of a crisis response organizational chart~~Processes to ensure ongoing communication is maintained with children in placement, foster care providers, or prospective adoptive parents and employees;
3. ~~Primary and alternate plans for evacuation~~to ensure continuity of services, including transportation and relocation of participants, when necessary, and evacuation of injured personsworkspace and ongoing access to relevant child-placing agency files; and
4. ~~Supervision of participant~~employees, nonemployees, children in

placement, foster care providers, and prospective adoptive parents after evacuation or relocation.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-07

SECTION 20. Section 75-03-36-19 is amended as follows:

75-03-36-19. Confidentiality and retention of files.

1. The child-placing agency shall have written procedures for safeguarding the confidentiality of records.
2. Except as otherwise provided in this section, child-placing agency records concerning children and families who have received, are receiving, or seek to receive services must be safeguarded and may be made available only:
 - a. To employees and nonemployees of the child-placing agency, to the extent reasonably necessary for the performance of their duties;
 - b. To persons authorized by a custodian, parent, or guardian who may lawfully review a child's record;
 - c. In a judicial proceeding;
 - d. To officers of the law or board specific to a criminal investigation;
and
 - e. As required by law.
3. The child-placing agency shall ensure that all records are kept in a safe place, protected from damage, theft, and unauthorized access.
- ~~3.4.~~ The child-placing agency shall have written policies regarding retention of permanent adoption records, foster care records, and personnel files disclose its records to the department, upon request.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-11-05, 50-12-05

SECTION 21. Section 75-03-36-20 is repealed:

75-03-36-20. Legal services and responsibilities.

[Repealed effective April 1, 2024]

~~The child-placing agency shall employ or retain legal staff to represent the child-placing agency in legal matters and to assure prompt resolution of legal questions for children in the legal custody of the agency. The agency shall have sufficient liability insurance to protect itself and children entrusted to its care from serious financial jeopardy.~~

~~**History:** Effective April 1, 2010.~~

~~**General Authority:** NDCC 50-12-05~~

~~**Law Implemented:** NDCC 50-12~~

SECTION 22. Section 75-03-36-21 is amended as follows:

75-03-36-21. Quality assurance.

~~The~~A child-placing agency or applicant shall develop written policy outlining its process for determining that the child-placing agency is providinghave a performance and quality programming and services, including the followingimprovement plan that ensures licensing compliance, advances service delivery, reviews management practices, and measures the achievement of program goals and outcomes. Quality assurance must include:

1. A process for reviewing the case plans for each child to evaluate the continued appropriatenessof each service plan;
2. A process for reviewing select child, foster or adoptive families, and personnel files, on a regular basis, quarterly to determine theensure quality and effectiveness of services being provided; and
3. A process for reviewing the child-placing agency's referral and admissions policies, procedures, and practices.

~~**History:** Effective April 1, 2010; amended effective April 1, 2024.~~

~~**General Authority:** NDCC 50-11-03, 50-12-05~~

~~**Law Implemented:** NDCC 50-1250-12-05~~

SECTION 23. Section 75-03-36-22 is amended as follows:

75-03-36-22. Child-placing agency closure.

~~Unless otherwise approved by the department, a~~The child-placing agency licensed under this chapter may not cease operations beforeshall have a policy and procedure in the event a child-placing agency closes. Prior to closing, the administrator shall provide at least a sixty-day written notice to the department, including:

1. ~~Notifying the department in writing of the child-placing agency's intent to close and the proposed date~~A detailed plan for closure, specifying:

- ~~a.~~ Date of closure, with details regarding how the child placing agency plans to meet the requirements of this subsection. This notification must be received by the department not less than ninety days prior to the proposed date of closure; and
- ~~b.~~ Plan to notify each custodian, parent, or guardian, foster care provider, adoptive families, and employees, no less than forty-five days prior to closure.
- ~~2.~~ All pending A detailed plan to supervise and manage all adoptive placements are finalized;
- ~~3.~~ All A detailed plan to accommodate all licensed or approved families awaiting adoptive placement have been referred and birth families to other agencies or have closed their regarding closure of cases;
- ~~4.~~ Custodians of children referred for services have been informed of the child placing agency's closure and arrangements for transfer of the cases have been made;
- ~~5.~~ The child placing agency makes a A detailed plan of reasonable attempt, which may require publication of a notice of closure; attempts to notify former clients of the child-placing agency's closure;
- ~~6.5.~~ Arrangements have been A detailed plan of any arrangements made with another resident-licensed child-placing agency to retain all permanent adoption records and provide post-finalization services; and
- ~~7.6.~~ Arrangements have been made to transfer any other records which must be retained for a specific time period to the department; and
- ~~8.~~ Temporarily retained records must be:
 - ~~a.~~ Boxed in banker-style boxes;
 - ~~b.~~ Clearly labeled; and
 - ~~c.~~ Indexed with the child placing agency providing the index to the department in writing and electronically as specified by the department.

History: Effective April 1, 2010; amended effective January 1, 2012; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-12-07

SECTION 24. Section 75-03-36-23 is amended as follows:

75-03-36-23. Adoption services – Coordination with referral Referral source.

A child-placing agency shall work in conjunction with a referral source, which may include a birth parent or a public agency case manager. Child-placing agency may:

1. ~~Distribute information regarding its adoption services to referral sources and inquiring provided for a child, the child's birth parent, and prospective adoptive families~~parents;
2. ~~Request complete pertinent~~Provide a list of required information needed from a referral source,~~including the following:~~
 - a. ~~Medical and developmental information on the child;~~
 - b. ~~Birth parent medical and social history, including the birth parent's medical and social history;~~
 - c. ~~Discharge hospital report and updated medical information on the child after the birth of the child;~~
 - d. ~~The child's life book;~~
 - e. ~~Child protection and child welfare history information, if applicable;~~
 - f. ~~Information from foster parents on the child prior to adoptive placement, if applicable;~~
 - g. ~~Information regarding the child's religious affiliation, if available;~~
 - h. ~~A certified copy of the termination of parental rights order prior to adoptive placement; and~~
 - i. ~~A copy of the child's birth certificate and social security card, if available.;~~
3. ~~Attend the child and family team~~Request an invite to meetings of any~~regarding the child referred who is in the custody of a human service zone, if applicable; and~~
4. Obtain necessary authorization for permission to recruit a prospective adoptive family for the child.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-05

SECTION 25. Section 75-03-36-24 is amended as follows:

75-03-36-24. Provision of services to birth parents — Adoption — Services to birth parents.

1. The child-placing agency shall:
 - a. Inform a birth parent of the birth parent's rights, obligations, and responsibilities under state law, or as specified by court order;
 - b. Inform a birth parent of the continuum of openness in adoption and the options available to the birth parent and the child for future contact as allowed by state law;
 - c. Assist the birth parent in making a decision and understanding the finality of relinquishment of parental rights;
 - d. Assist the birth parent to legally terminate the birth parent's parental rights provided this is the decision of the parent and the parent has the legal authority to ~~unilaterally~~ relinquish his or her rights or make an adoption plan;
 - e. ~~Honor~~Solicit the preference of the birth parent for the religious faith in which their child ~~will~~may be reared, ~~provided it does not unduly delay placement of the child for adoption;~~
 - f. Include the birth parent, and other significant ~~persons~~individuals including the child when appropriate, in the development of the case plan;
 - g. Obtain, if assuming custody of a child for voluntary placement purposes:
 - (1) Written authority from the parent or parents to place the child; and
 - (2) Written authority from the parent or parents to provide medical services for the child;
 - h. Make reasonable efforts to involve the birth ~~father~~parents in planning for the adoptive placement of the child. Reasonable efforts as identified by this section means effort with respect to any action made, attempted or taken by the child-placing agency is intended to be timely, documented, and consistent with the best interests of the child; and

- i. Offer supportive and referral services to the birth parents.
2. No fee, with the exception of reasonable fees as verified by the court and allowed by state law, may be paid by the prospective adoptive parents to the birth parents. The fees paid by the prospective adoptive parents and the services provided by the child-placing agency to the birth parents are may not be provided dependent on their willingness to relinquish their child for adoption.
3. The child-placing agency arranging the adoptive placement of a foreign-born child is not expected to provide services to the birth parents, if the birth parents are unknown or unwilling to engage with the child-placing agency, but shall obtain available medical and other pertinent information regarding the adoptive child.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-1250-12-05~~

SECTION 26. Section 75-03-36-25 is amended as follows:

75-03-36-25. Provision of services to the child – Adoption – Services to the child.

1. The child-placing agency shall make every effort to place siblings together in an adoptive home. If it is not possible to place siblings together, the child-placing agency shall add written documentation in the child's file identifying the reasons the siblings could not be placed together and the plans formulated to keep the siblings in contact with one another after the adoption.
2. The child-placing agency shall create and provide a life book to the child, ~~if the child does not already have one,~~ and shall give the child an opportunity to explore the child's birth history in preparation for the child's adoptive placement.
3. When appropriate to the child's developmental needs, the child-placing agency shall provide preplacement counseling to the child to assist the child in adjusting to adoption.
4. The child-placing agency shall begin recruitment efforts immediately ~~upon and on an ongoing basis as directed by the referral for a child referred to the child-placing agency~~ without an identified family. Diligent recruitment ~~will~~ may include listing the child with local, regional, and national ~~child-specific recruitment resources as directed by the child's child and family team.~~

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-05

SECTION 27. Section 75-03-36-26 is amended as follows:

75-03-36-26. Private adoptions - Selection of interim care for child pending adoptive placement.

- ~~1.~~ The child-placing agency designated by the child's custodian or by the court shall select the most appropriate form of care for the child consistent with the child's needs shall select prospective adoptive parents who have the capacity to assist in the achievement of the permanency goal. For all private adoptions, the
- ~~2.~~ The child-placing agency shall select care that has the capacity to assist in the achievement of the goal of permanency and shall make efforts as appropriate:
 1. Make efforts to involve the birth parents in the selection of care the prospective adoptive parents.
- ~~3.~~2. The child-placing agency may if appropriate, make a legal risk adoptive placement, prior to the termination of parental rights, into the home of a prospective adoptive parent of that child, provided that:
 - a. The prospective family home has been fully studied and recommended for adoption placement; and
 - b. The prospective adoptive parents sign a document acknowledging that they understand the risk of the birth parent reclaiming the child and that the prospective adoptive parents will return the child to the child-placing agency upon the child-placing agency's request.
3. Recruit foster care providers to provide interim care for infants being relinquished to the custody of the child-placing agency prior to the adoptive home placement of the child, if applicable.
4. Collaborate with the department to identify a licensed foster care provider for the child-placing agency to access for interim care for infants. Permission must be limited to a specific child for a specific period of time. The child-placing agency shall provide the same information to the licensed foster care provider as it would provide to the child-placing agency's foster care provider.

History: Effective April 1, 2010; amended effective April 1, 2016; April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-1250-12-08~~

SECTION 28. Section 75-03-36-27 is repealed:

75-03-36-27. Licensed ~~child placing~~child-placing agencies - Interim family foster homes for infants.

[Repealed effective April 1, 2024]

1. ~~The child placing agency may recruit and arrange for licensing family foster homes that will provide interim care for infants being relinquished to the custody of the child placing agency prior to the adoptive placement of the child. Foster homes must be licensed according to North Dakota Century Code chapter 50-11, North Dakota Administrative Code chapter 75-03-14, and department policy found in manual chapter 622-05.~~
2. ~~The child placing agency shall provide orientation to a foster parent to increase the foster parent's awareness of the following:~~
 - a. ~~The foster parents' roles and relationships with adoptable children, birth parents, and prospective adoptive parents;~~
 - b. ~~The estimated time frame for adoptive placement;~~
 - c. ~~The record of the child's development and needs;~~
 - d. ~~The child's life book information;~~
 - e. ~~The provision of pertinent, nonidentifying information regarding the child's background, case plan, and written authority from the custodian for medical care, including prescribed medication; and~~
 - f. ~~An explanation of reimbursement procedures for cost of care.~~
3. ~~If the child placing agency wishes to use a human service zone supervised foster home, the child placing agency shall secure permission to utilize the home from the appropriate human service zone director prior to the placement. Permission must be limited to a specific child for a specific period of time. The child placing agency shall provide the same information regarding the child to the human service zone foster home as it would provide to the child placing agency's foster home.~~

History: Effective April 1, 2010.

General Authority: NDCC ~~50-12-05~~

Law Implemented: NDCC ~~50-12~~

SECTION 29. Section 75-03-36-28 is amended as follows:

75-03-36-28. ~~Pre-adoption placement~~Adoption – Preplacement preparation services.

1. A child-placing agency may not place a child into an adoptive home without a full adoption assessment being completed on the prospective adoptive parents, including required fingerprint-based criminal ~~history record investigations~~background check and child abuse and neglect index ~~investigations~~check.
2. The child-placing agency may not place a child into an adoptive home if:
 - a. There is a prior finding of deprivation related to any child in the prospective adoptive home within in the last five years;
 - b. There has been a dissolution of a previous adoption within the last five years;
 - c. There has been a disruption of a formal adoptive placement within the last five years, unless further assessment by the child-placing agency in consultation with the department determines such placement to be in the best interest of the child; or
 - d. The custodial agency reasonably believes the adoption is not in the best interest of the child.
3. If the prospective adoptive parents are licensed foster care providers, the child-placing agency shall obtain and consider the foster care assessment as part of the adoption assessment to determine suitability. An adoptive home is presumed suitable if the foster care provider has:
 - a. Been continuously licensed, certified, or approved as a family foster home for children; and
 - b. Provided foster care for children for more than one year without a correction order, fiscal sanction, or license revocation proceeding.
4. ~~If the age and circumstances of the child warrants, the~~A child-placing agency shall give the prospective adoptive parents an opportunity to review the records of the child in the child-placing agency's possession, and shall provide the prospective adoptive parents an opportunity to meet with the child's case manager, therapists, foster ~~parents~~care providers, and other treatment providers to gain an understanding of the child's needs and the services the child will require upon placement in the prospective adoptive home.

- ~~3.5.~~ 3.5. ~~If the age of the child allows, the~~A child-placing agency worker shall help the child, when age appropriate, understand the reasons for placement, ~~shall prepare the child for the new family and environment, and shall be available to the child,~~ prospective adoptive parents, and the birth parents, when applicable, for supportive services.
- ~~4.6.~~ 4.6. ~~If the age or the mental, physical, or emotional condition of the child allows,~~A child-placing agency preplacement preparation services must include:
- a. ~~A visit between~~with the child at the home of the prospective adoptive parents ~~and the child in the foster home, if applicable;~~
 - b. Sharing the child's life book with the child and the prospective adoptive parents, if applicable;
 - c. ~~Making arrangements~~Arrangements for a physical examination unless the child had a physical examination within one year prior to placement ~~and.~~ The child-placing agency shall provide the prospective adoptive parents with a copy of the physician's report and the child's immunization record ~~is in the child-placing agency's file for the child;~~
 - d. ~~Making arrangements~~Arrangements for an eye, dental, and hearing examination for a child three years of age or older unless the child had these examinations within one year prior to placement ~~and.~~ The child-placing agency shall provide the prospective adoptive parents with copies of the examination reports ~~are in the child-placing agency's file;~~ and
 - e. ~~The sharing~~Sharing of information regarding the child's development and needs between the foster parents ~~care providers, if applicable,~~ and the prospective adoptive parents.
- ~~5.7.~~ 5.7. The child-placing agency shall prepare the prospective adoptive parents for an understanding of separation anxiety, grief reaction, and problems related to attachment.
- ~~6.8.~~ 6.8. The child-placing agency shall notify the referral source of the date of placement.
- ~~7.9.~~ 7.9. The child-placing agency, if applicable, shall make ~~any interstate~~an adoptive placement in accordance with the interstate compact on the placement of children.
- ~~8.10.~~ 8.10. ~~If warranted, the~~The child-placing agency, if applicable, shall discuss the

~~availability of need and qualifications for~~ adoption assistance and shall make a referral to the ~~human service zone when appropriated~~ department. The child-placing agency ~~must~~ shall provide the ~~human service zone~~ department with supporting documentation of the need for adoption assistance when making the referral.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~ 14-15-11, 50-12-08

SECTION 30. Section 75-03-36-29 is amended as follows:

75-03-36-29. Adoption ~~placement~~ – Placement.

1. The child-placing agency shall adopt written policies for the placement of a child legally free for adoption. The policies must ~~provide for the following~~ include:
 - a. ~~A placement~~ Placement contract procedures as specified in North Dakota Century Code section 50-12-06;
 - b. Collaboration with the custodial case manager or birth parents to review the prospective adoptive parents;
 - c. Placement into an adoptive home as soon as possible after the child is legally free for adoption;
 - e.d. Placement of an Indian child according to the Indian Child Welfare Act and North Dakota Century Code chapter 27-19.1;
 - d.e. Placement in the best interests of the child;
 - e.f. Placement with identified relatives ~~or extended family members~~ if it is in the best interests of the child; in the event a relative search is completed by the child-placing agency, diligent search efforts must be documented;
 - f.g. ~~Placing~~ Placement of siblings together, and if this is not possible, a plan to keep separated siblings connected after adoption;
 - g.h. Placement to meet each child's ~~distinctive~~ needs;
 - h.i. ~~Prohibition of placement~~ Placement of a child cannot be based solely on the ~~basis of race, color,~~ or national origin of the adoptive ~~or foster~~ parent parents or the child involved, unless the Indian Child Welfare Act or North Dakota Century Code chapter 27-19.1 applies;

- ~~i.j.~~ Continuation of services to assist the child and family; ~~and~~
 - ~~j.k.~~ Delivery of a copy of the child's current medical recordsProviding relevant child specific documents to the child's adoptive parents; ~~and~~
 - l. Adoption related policies required by the department.
2. The child-placing agency shall give notice to the department of any ~~child placed~~adoptive placement facilitated by the child-placing agency for adoption. The child-placing agency shall provide notice within ~~two weeks~~seven calendar days of placement ~~on the form prescribed by the department.~~

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-06, 50-12-08

SECTION 31. Section 75-03-36-30 is amended as follows:

75-03-36-30. Adoption - Post-placement and post-finalization.

1. Post adoptive placement. The child-placing agency shall have policy and procedure detailing:
 - a. ~~Make continuing supportive~~Supportive services offered and available for childrenthe child and familiesadoptive family following adoptive placement;
 - b. ~~Interview all~~Monthly visitation with the adoptive parents and other members of the adoptive familyin the family home, as applicable;
 - c. ~~Have~~Monthly face-to-face visits with the child ~~on a monthly basis primarily in the child's residence and the content of the visits must be documented in the child's file; and~~
 - d. ~~Provide assistance~~Assistance provided to the adoptive family in completing the legal adoption of the child; ~~and~~
 - ~~e. Make post-finalization services available to adoptive parents, birth parents, and the adopted child or adult, when needed. Minimally, the agency shall provide for:~~
 - ~~(1) An exchange of pictures and letters between birth and adoptive families consistent with contact agreements;~~
 - ~~(2) Adoption search services; and~~

(3) ~~Information and referral services.~~

2. Post-finalization. The child-placing agency shall have policy and procedure detailing:
 - a. Supportive services offered and available to adoptive parents, birth parents, and the adoptive child or adult, as applicable;
 - b. Exchange of information between birth and adoptive families consistent with contact agreements; and
 - c. Information and referral services, including the North Dakota post adopt network.
3. ~~The child-placing agency may charge a reasonable fee for~~ The child-placing agency shall have policy and procedures detailing adoption search services specific to the process, availability, and fees charged.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-1250-12-05

SECTION 32. Section 75-03-36-31 is amended as follows:

75-03-36-31. Adoption - Services to prospective adoptive parents.

1. A child-placing agency serving minority race children shall have a recruitment plan that actively recruits homes of the same race as the adoptive children to preserve the adoptive child's culture.
2. The child-placing agency shall provide information to a prospective adoptive parent about the adoption process, the child-placing agency's policies and practices, legal procedures, and the approximate time the adoption process will take, adoptive standards, children available, the availability of a subsidy if appropriate, and a payment schedule which clarifies provision of services, dates of payment, and an estimate of final costs.
3. The child-placing agency shall provide education to a prospective adoptive parent to ensure they have a well-rounded understanding regarding trauma, the needs of an adoptive child, and the importance of maintaining biological and cultural connections.
4. The child-placing agency shall require the prospective adoptive parent of a foreign-born child to purchase a surety bond, or have five thousand dollars in savings, to provide financial protection for a possible disruption, or unexpected medical costs prior to finalization unless the adoptive parent is

provided a copy of the decree of adoption from the foreign court at the time of finalization in the foreign country.

4.5. The child-placing agency shall document ~~the following information in the applicant's record and a summary of the information must be recorded in and maintain on file~~ the adoption assessment:

- a. ~~Motivation for adoption;~~
- b. ~~Strengths and challenges of each member of the family;~~
- c. ~~The attitudes and feelings of the family members and extended family regarding adoption, with emphasis, if indicated, on attitudes and feelings about potential special needs and foreign-born children;~~
- d. ~~Evidence of stability of the adoptive parents' marital or other significant relationships;~~
- e. ~~The applicant's understanding of and plans for assisting a minority or foreign-born child to understand and value the child's racial and cultural background;~~
- f. ~~Attitudes of the applicant toward the birth parents and the birth parents' reasons for placement;~~
- g. ~~The applicant's plan for discussing adoption with the child;~~
- h. ~~The applicant's emotional stability and maturity, including a history of treatment for substance abuse, mental health concerns, abuse or neglect issues, or other issues impacting the applicant's emotional stability and maturity. If indicated, the child-placing agency shall make arrangements for psychological evaluation of the applicant's emotional stability and maturity;~~
- i. ~~The applicant's parenting skills and willingness to acquire additional skills needed for the child's development;~~
- j. ~~The attitude of the applicant's birth children or previously adopted children about adoption, if applicable;~~
- k. ~~Reports of the physical examination of the applicant or self-disclosure of medical concerns, current within the last twelve months;~~
- l. ~~The applicant's ability to provide financially for the child to be adopted with or without financial assistance under subsidized~~

adoption, including the availability of health insurance;

- m. ~~The applicant's references, including at least five personal and community character references;~~
- n. ~~The applicant's religious preference, if any;~~
- e. ~~Description of the applicant's home and community;~~
- p. ~~Substitute care for child care if the applicant works;~~
- q. ~~Plans for care of the child in the event of the death of the applicant after the adoption;~~
- r. ~~Results of fingerprint-based criminal history record investigation and child abuse and neglect index investigations; and~~
- s. ~~Recommendations for adoption in regard to number, age, sex, characteristics, and special needs of children best served by the applicants. An adoption assessment must be completed in the form and manner prescribed by the department which must include onsite visits of the prospective adoptive parent's home to assess physical safety, personal beliefs, motivation and commitment to adopt, relationship status, support systems, financial stability, substance use, mental and behavioral health stability, plans to support the child's long term needs, cultural and biological family connections, plan for care of the child in the event of death and any supplemental information determined necessary and collected throughout the assessment process.~~

5.6. During the course of the ~~study~~assessment, the child-placing agency shall keep the applicant informed of the applicant's status ~~with the child-placing agency~~. When an applicant is denied a ~~positive~~ recommendation for adoption, the child-placing agency shall inform the applicant, in writing, of the reasons the child cannot be placed in the applicant's home. The child-placing agency shall offer services to the applicant as needed.

6.7. The child-placing agency shall require an adoptive family assessment be updated at least every two years from the date of completion of the original assessment until a child is placed into the home for the purpose of adoption.

7.8. The child-placing agency shall have regular contact with an approved waiting adoptive family to assess their circumstances and ~~current~~ ability to ~~receive~~adopt a child for adoptive placement.

8.9. The child-placing agency shall develop apolicy and procedure to allow

applicants to grieve the services provided by the child-placing agency ~~and to allow prospective adoptive parents to appeal~~ or to grieve the child-placing agency's decision regarding adoption assessment denial.

History: Effective April 1, 2010; ~~amended effective April 1, 2024.~~

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-07, 50-12-08

SECTION 33. Section 75-03-36-32 is amended as follows:

75-03-36-32. Adoption - Case plan for adoption.

1. The child-placing agency shall develop a written case plan for each ~~client~~child. The case plan must include a description of specific services to ~~be provided~~meet the needs of the child, the prospective adoptive parents, and must include goals ~~and the time frames for meeting those goals~~specifying timelines to achieve permanency.
2. The child-placing agency shall review the case plan ~~periodically~~annually.
3. ~~The child-placing agency shall develop the case plan cooperatively with the client, including with a child when developmentally appropriate.~~
4. ~~The case plan must be signed and dated by the client.~~
5. ~~The case plan must be signed and dated by the case manager~~ and other relevant parties as determined appropriate.
- ~~6.~~4. For a child in the custody of a tribe or a human service zone, the case plan must be directed by the ~~child's~~custodial agency, the child, if appropriate, and with input from members of the child and family team.
- ~~7.~~5. For a child in the custody of the child-placing agency, the child-placing agency may direct the case plan.
- ~~8.~~6. For a child in the custody of a birth or adoptive parent, the legal custodial parent may direct the case plan.

History: Effective April 1, 2010; amended effective July 1, 2020; April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-06

SECTION 34. Section 75-03-36-33 is amended as follows:

75-03-36-33. ~~Client adoption case~~Adoption - Case records.

1. The child-placing agency shall maintain a ~~current and systematically filed~~

case record on each client served. The child-placing agency shall maintain a ~~master file or card catalog on~~ list detailing all case records of ~~managed by~~ the child-placing agency. The child-placing agency shall adopt a policy regarding the retention of the permanent adoption record.

2. The child's case records must include the following:

- a. ~~A face sheet with current addresses of parents of child clients or other significant persons~~ The child's full name, date of birth, and other identifying information;
- b. The child's referral information;
- c. The child's birth record;
- d. Application documents, including a photo of the child, if recruitment is needed;
- e. Record of the child's placement history with names of caregivers and dates of placement;
- ~~e.f.~~ Child-placing agency assessments and supporting documentation, including criminal history record investigation, child abuse and neglect index investigation results, and medical records with significant family health history for the adoptive parents;
- ~~d.g.~~ Medical records with significant family health history for the child and any the child's birth parent;
- ~~e.h.~~ Signed statements authorizing necessary medical or surgical treatment for the child;
- f. ~~Correspondence;~~
- ~~g.i.~~ Legal documents;
- ~~h.j.~~ Child-placing agency agreements or contracts;
- ~~i.k.~~ Reports from schools, specialists, and other agencies;
- ~~j.l.~~ A case ~~service~~ plan; and
- ~~k.m.~~ Dated, ongoing records of treatment, supervisory visits, conferences All relevant correspondence regarding the child's treatment, visits, and contacts with other persons concerning services provided to the client child.

2.3. The prospective adoptive parents case record must include the following:

- a. Fingerprint-based criminal background check;
- b. Child abuse and neglect index check, initially and annually thereafter, if applicable;
- c. Medical records, if applicable;
- d. Adoption assessment;
- e. Other pertinent documentation;
- f. Physical examination; if applicable and
- g. In the event a family is prospective adoptive parents are denied a positive recommendation for adoption or did not have a child placed with them, the child-placing agency shall keep on file a narrative clearly indicating the reason and the manner in which the decision was presented to the family.

4. The birth parent case record must include the following, if applicable:

- a. Application documents;
- b. Medical and health history; and
- c. Family genealogy and social history.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-12~~50-12-05

SECTION 35. Section 75-03-36-34 is amended as follows:

75-03-36-34. Adoption - Placement disruption.

The child-placing agency shall:

- 1. Report immediately to the department any adoption placement disruptions;
- 2. Provide services to assist the child with ~~feelings of anger, separation, and~~ managing the loss that occur after an adoption a placement disruption;
- 3. Assess the needs of the child when considering replacement options;

4. ~~Offer counseling~~Provide services to assist the adoptive parents to assist them with feelings of anger, separation, and in managing the loss after a placement disruption; and
5. Assess the needs of the adoptive family with whom the child was placed at the time of the disruption prior to considering any future adoptive placement.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-1250-12-05~~

SECTION 36. Section 75-03-36-35 is amended as follows:

75-03-36-35. Foster care services related to child-placing agencies - Programs and services.

1. The child-placing agency shall adopt a written program description, which includes the following:
 - a. ~~The purpose or mission of the child-placing agency, as it relates to the child-placing agency's role as a child-placing agency;~~
 - b. ~~—~~A description of the services provided by the child-placing agency, clearly stating which services are provided directly by the child-placing agency and which services are to be provided in collaboration with a human service zone, the division of juvenile services, tribal entities, community resources such as schools, and other appropriate agencies;
 - b. A description of how the child-placing agency engages in wraparound philosophies, and how collaboration efforts occur;
 - c. A description of how the child-placing agency will participate in preparing a child in foster care to transition to adulthood, if applicable;
 - c.d. ~~Characteristics and eligibility requirements of individuals appropriate for referral to a child served by the child-placing agency may not exceed the requirements for children working with a human service zone, tribe, division of juvenile services, or the department;~~
 - d.e. A list of information that is required to be submitted with the referral;
 - f. Foster care providers must be licensed in accordance with chapter 50-11 of the North Dakota Century Code and chapter 75-03-14; and

~~e.g.~~ Acknowledgment that final decisions regarding a child referred to the child-placing agency rest with the custodian pursuant to the authority and responsibility conferred on the custodian under chapter 27-20.3 North Dakota Century Code section 27-20-38.

2. The child-placing agency shall have a written ~~intake, admission, and discharge~~ policy. The written policy must include:

a. ~~An assessment process for~~ A screening of referrals, including a method of determining the appropriateness of each referral, including the age, ~~sex~~ gender, and characteristics of a child eligible for child placement;

b. Verification that a child referred to the child-placing agency and accepted for services ~~is under the age of eighteen at the time of intake and is determined to be:~~

~~(1) Unable to receive parental care in the child's own home;~~

~~(2) Potentially capable of accepting other family ties;~~

~~(3) Able to participate in family and community life without danger to self or others; and~~

~~(4) Verification that acceptance for services would not hinder an adoption plan~~ meets the criteria for admission and placement into a family setting;

c. ~~A child-placing agency engaged in providing therapeutic foster care services must follow all requirements contained in the department's policy found at manual chapter 624-05~~ Requirements specific to a child in foster care as defined by the department;

d. ~~A requirement that the child-placing agency will provide services to a child referred to the child-placing agency's care without discrimination on the basis of race, color, national origin, religion, or sexual orientation;~~

~~e.~~ A requirement that the child-placing agency accept a child for placement only when legally authorized to do so who meets eligibility criteria;

~~f.e.~~ A process for assisting the applicant or referral source, or both, in obtaining services from other agencies when the child-placing agency's services are not appropriate to the applicant's or referral source's needs; and

- ~~g.f.~~ A requirement that the child-placing agency discuss with the child and the child's parent, guardian, or custodian, the suitability, appropriateness of the child-placing agency's services in meeting the child's identified needs, including client right's.
3. The child-placing agency shall have a written discharge policy, including the development of a discharge plan. The written policy and plan must include:
- a. Names of individuals involved in discharge planning;
 - b. The date of admission;
 - c. The date of discharge;
 - d. Details of the events and circumstances leading to the decision to discharge;
 - e. The names and address of the individual or agency to whom the child is discharged;
 - f. A summary of services provided during placement;
 - g. A summary of goal achievement;
 - h. A summary of the child's continuing needs;
 - i. Appointments scheduled;
 - j. A list of medication prescribed; and
 - k. A summary of efforts made by the child-placing agency to prepare the child for discharge.
4. A licensed child-placing agency shall work with the department to set the child-placing agency's foster care fee for service rate, inclusive of clothing and personal incidentals.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-12-05

Law Implemented: NDCC ~~50-1250-12-05, 50-12-07~~

SECTION 37. Section 75-03-36-36 is amended as follows:

75-03-36-36. Child-placing agencies' file and documentation requirements for foster care placements Foster care – Program files.

1. The child-placing agency shall ~~adopt a written file and documentation policy requiring that, within thirty days after placement, the child-placing agency establish and thereafter maintain a file for each child. This file must include:~~
 - a. The child's full name, ~~birth date~~ of birth, ~~age,~~ and ~~gender~~ other identifying information;
 - b. ~~Name~~ The name and contact information, ~~including that of the~~ custodian, parent, or guardian, and other pertinent individuals;
 - c. ~~A signed~~ Signed care agreement, ~~or contract,~~ or current court order establishing the child-placing agency's authority to accept and ~~care~~ for ~~place~~ the child;
 - d. An explanation of custody and legal responsibility for consent to any medical or surgical care;
 - e. An explanation of responsibility for payment for care and services;
 - f. A current ~~care~~ case plan;
 - g. A copy of the appropriate interstate compact forms, if applicable;
 - h. ~~Copies of periodic, at least quarterly, written~~ Progress reports must be developed by the child-placing agency and provided at least quarterly to the child's parent, guardian, or legal custodian, parent, or guardian;
 - i. Medical records, including annual health tracks screenings, immunization records, and evidence of appropriate medical followthrough, ~~immunization records,~~ and height and weight records; and
 - j. ~~Records of annual dental examinations, including necessary dental treatments such as prophylaxis, repairs, and extractions;~~
 - k. ~~School records, including individual education plans, if applicable; and~~
 - l. ~~Records of eye examinations at intervals not to exceed two years. Children who are in need of glasses shall be supplied with glasses as required.~~
2. The child-placing agency shall ~~adopt a written file and documentation policy~~

~~ensuring that the child-placing agency shall maintain a current and systematically filed case record~~file on each foster family served. Permanent case records shall be kept in locked, fire-resistant filing cabinets. There shall be a master file or card catalog on all case records of the child-placing agency. The case records shall include at least the following foster care provider, including:

- a. ~~A face sheet with current~~Current contact information for foster parents and other significant persons care providers;
- b. ~~Application~~Initial and renewal licensing documents;
- c. Fingerprint-based criminal background checks;
- d. Initial and annual child abuse and neglect index checks;
- e. ~~Agency~~Child-placing agency specific assessments and supporting documentation, including criminal history and child protection services registry check results;
- d. ~~Medical records with significant family health history and signed statements authorizing necessary medical or surgical treatment;~~
- e.f. Correspondence;
- f. ~~Licensing documents; and~~
- g. Child-placing agency agreements or contracts.

History: Effective April 1, 2010; amended effective January 1, 2012, April 1, 2024.

General Authority: NDCC 50-12-05, 50-12-07

Law Implemented: NDCC ~~50-12~~50-12-05, 50-12-07

SECTION 38. Section 75-03-36-37 is amended as follows:

75-03-36-37. Child and family plan of Foster care for foster children- Case plan.

The child-placing agency shall adopt a written policy that ensures the child-placing agency will develop a ~~written plan of care for~~case plan for each child and family. The policy must ~~require~~include:

- 1. ~~The child-placing agency develop the care~~development of a case plan, within thirty days of placement, in conjunction with the child and family team;
- 2. ~~The child's care plan be developed or reviewed within thirty days of~~

~~placement with the child-placing agency;~~

- ~~3. The child's care plan be developed or reviewed with the appropriate participation and informed consent of the child or, when appropriate, the child's guardian or custodian;~~
- ~~4. Documentation that the child and the child-placing agency representative have participated of participation in child and family team meetings on a quarterly basis, and that input has been obtained from the custodian, child, family, foster family, and other pertinent team members;~~
- ~~5.3. Documentation that the child-placing agency has collaborated and communicated at regular intervals with of services provided by other agencies that are working with the child to ensure coordination of services and to carry out the child's plan inclusive of behavioral and physical health needs;~~
- ~~6. Documentation of services provided by other agencies, including arrangements that are made in obtaining them;~~
- ~~7.4. Documentation of the arrangements by which the child's special needs, including prescribed medication, diets, or special medical procedures, are met if applicable;~~
- ~~8. The child-placing agency to provide for annual dental examinations including necessary dental treatments such as prophylaxis, repairs, and extractions;~~
- ~~9.5. The child-placing agency make Documentation of reasonable efforts to gather relevant case planning information from the custodian, parents, foster parents, care providers, courts, schools, and any other appropriate individuals or agencies;~~
- ~~10.6. Completion of a strengths and needs assessment of the child, biological family, and foster family care provider;~~
- ~~11.7. Identification of measurable goals, including time frames for completion;~~
- ~~12.8. Identification of the measures that will be taken or tasks that will be performed to assist the child and family with meeting the goals;~~
- ~~13.9. Identification of the individual or entity responsible for providing the service or completing the task;~~
- ~~14.10. A discharge plan, including a projected discharge date with special attention to discharge planning efforts for a child who is aging out of the~~

foster care system; and

- ~~15-11. The child-placing agency to document~~Documented evidence of individualized treatment progress in a child's ~~service~~case plan ~~evidence of individualized treatment progress, to review the plan~~reviewed at least every ~~thirty days~~quarterly, or more often if necessary, ~~to determine if services are adequate and still necessary or whether other services are needed.~~

History: Effective April 1, 2010; amended effective January 1, 2012; April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-11-03, 50-12-05

SECTION 39. Section 75-03-36-38 is amended as follows:

75-03-36-38. Foster care - Family foster homes - Recruitment - Licensing - Foster parent training - Supportcare provider.

The child-placing agency shall adopt a written family ~~foster home~~ policy that ~~encompasses the following~~describes how the child-placing agency will:

1. ~~The child-placing agency shall recruit family~~Recruit foster homes~~care providers~~ and evaluate the homes' suitability to meet the individual and specialized needs of children ~~accepted for family~~in foster care, including ~~those with physical, mental, and emotional disabilities~~identifying providers who support cultural diversity and inclusion;
2. ~~The child-placing agency shall recruit foster parents who have experience or who have the personal characteristics and temperament suited to working with a child placed in their home, who can provide a child with care, protection, and the relationships and experiences that foster normal, healthy childhood development;~~
3. ~~The child-placing agency shall make efforts to recruit family foster homes which reflect the race of children being served;~~
4. ~~The child-placing agency shall arrange for licensing family~~License foster care providers as follows:
 - a. ~~Family foster homes must be licensed according to North Dakota Century Code chapter 50-11 and North Dakota Administrative Code chapter 75-03-14; and~~
 - b. ~~Providers of therapeutic family foster care must meet the requirements of department policy found at manual chapter 624-05;~~
- 5.3. ~~The child-placing agency shall place~~Place children ~~only in~~in foster care in licensed family foster care provider homes;

- ~~6.4.~~ 6.4. The child-placing agency shall ~~make~~Make available, and shall ensure the foster parents~~care providers~~ complete, the following training:
- ~~a.~~ a. ~~Fire prevention training as specified in North Dakota Century Code section 50-11-01.5;~~
 - ~~b.~~ b. ~~Training requirements contained in North Dakota Administrative Code chapter 75-03-14;~~
 - ~~c.~~ c. ~~Training requirements contained in department policy found in manual chapter 622-05, foster care for children licensing standards; and~~
 - ~~d.~~ d. ~~Training requirements contained in department policy found in manual chapter 624-05, foster care services – permanency planning policies and procedures, required training for foster parents providing specialized care~~ orientation and required training;
- ~~7.5.~~ 7.5. The child-placing agency shall ~~provide for~~Provide ongoing supervision of foster parents to ensure foster parents~~care providers~~ have the training necessary to provide quality care; and
- ~~8.6.~~ 8.6. The child-placing agency shall ~~provide, and ensure that~~Ensure foster parents~~care providers~~ have the necessary support from the child-placing agency; and the child welfare system and shall provide an orientation to foster parents on the child-placing agency's policies; and~~custodial agency~~
- ~~9.~~ 9. The child-placing agency shall ensure staff and foster parents have training in, precautions for severe weather, first aid, and cardiopulmonary resuscitation.

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-11-03, 50-11-04, 50-12-05

SECTION 40. Section 75-03-36-39 is amended as follows:

75-03-36-39. Foster care placements- Placements.

The child-placing agency shall create and maintain written policy outlining how the child-placing agency will evaluate placement decisions. The evaluation must consider ~~the appropriateness of initially placing a child with a specific foster family~~initial and must provide for ongoing assessment of the appropriateness of the placement. ~~Additionally, the~~The evaluation must include:

1. The identification of the appropriate foster care provider to meet the child's

needs;

- ~~2. The child's view of the placement and of the foster family;~~
- ~~2.3. The foster parent's care provider's commitment to the child's best interests;~~
- ~~3.4. The foster parent's relationship with care provider's ability and willingness to accept and support the biological family and support of the biological family; and~~
- ~~4.5. Evidence that the placement supports the child's maintaining family and sibling connections, visitation, educational needs, including avoiding change of school placement;~~
- ~~5. Evidence that the placement supports the child's religious and spiritual needs;~~
- ~~6. Evidence that the placement supports the child's cultural needs;~~
- ~~7. An assessment of the quality of the relationship between the foster family and child;~~
- ~~8. An assessment of the foster family's ability to accept and work with the child's birth family, when applicable;~~
- ~~9. Evidence that the placement supports maintaining sibling connections, i.e., siblings are being placed together, or the vicinity of the placement encourages sibling visits and contacts;~~
- ~~10. Evidence that the placement supports appropriate parent-child visits and contacts; and~~
- ~~11. Use of staff trained to determine the needs of children and their families, to assess placement resources for children found to be in need of placement, and to make decisions necessary to effect appropriate placements religious, spiritual, and cultural needs.~~

History: Effective April 1, 2010; amended effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-05

Law Implemented: NDCC 50-1250-11-03, 50-12-08

SECTION 41. Section 75-03-36-40 is repealed:

75-03-36-40. Service delivery.

[Repealed effective April 1, 2024]

~~The child-placing agency shall develop written policy addressing the service delivery component of its programming, including the following:~~

- ~~1. A description of how the child-placing agency engages in the child and family team and wraparound philosophies, and how collaboration efforts occur;~~
- ~~2. A description of how the child-placing agency provides services for a child to accommodate the child's needs, either directly or through cooperative arrangements with other agencies;~~
- ~~3. A description of how the child-placing agency demonstrates that it is guided by the best interests of the child in all matters relating to services for children;~~
- ~~4. Regarding religion and spirituality, a requirement that:
 - ~~a. The child-placing agency assess the religious and spiritual needs of the child and the child's family upon admission;~~
 - ~~b. The child-placing agency give appropriate consideration to the religious and spiritual needs requests of the child and the child's family when determining programming and placement;~~
 - ~~c. The child-placing agency and foster parents respect the religious and spiritual beliefs of the child and the child's family;~~
 - ~~d. The child-placing agency and foster parents make opportunities available for the child to attend religious and spiritual ceremonies of the child's choosing within the area in which the child is placed, whenever possible; and~~
 - ~~e. The child-placing agency document the religious and spiritual activities in which the child participates;~~~~
- ~~5. Regarding culturally sensitive programming, a requirement that:
 - ~~a. The child-placing agency assess the cultural needs of the child and the child's adoptive and birth families upon admission;~~
 - ~~b. The child-placing agency give appropriate consideration to the cultural needs of the child and the child's adoptive and birth families when determining programming and placement;~~
 - ~~c. The child-placing agency and foster parents respect the cultural beliefs of the child and the child's adoptive and birth families;~~~~

- d. ~~The child-placing agency and foster parents make cultural opportunities available within the area in which the child is placed, whenever possible; and~~
 - e. ~~The child-placing agency document its efforts to meet the cultural needs of the child and the child's adoptive and birth families;~~
6. ~~Regarding educational needs, a requirement that:~~
- a. ~~The child-placing agency provide opportunities for academic and vocational training;~~
 - b. ~~The child-placing agency attempt to place a child to maintain the child's current school placement; and~~
 - c. ~~When applicable, the child-placing agency document the reasons why a child had to change schools due to placement;~~
7. ~~Regarding how the child-placing agency supports the state's efforts to maintain sibling connections, a requirement that:~~
- a. ~~The child-placing agency make efforts, and document efforts made to place siblings together;~~
 - b. ~~The child-placing agency document the reasons siblings were not placed together;~~
 - c. ~~The child-placing agency arrange sibling visits and contacts;~~
 - d. ~~The child-placing agency document visits between siblings; and~~
 - e. ~~The child-placing agency educate foster parents on the importance of sibling visits, state requirements regarding these visits, and assist the foster parents with overcoming obstacles regarding sibling visits;~~
8. ~~Regarding how the child-placing agency supports the child welfare system's parent and child visitation policy, a requirement that:~~
- a. ~~The child-placing agency arrange visits between a child and the child's parents;~~
 - b. ~~The child-placing agency document the visits between parents and a child in care;~~
 - c. ~~When visits are not occurring as required, the child-placing agency~~

~~document efforts made, and the reasons the visits are not occurring;
and~~

- ~~d. The child placing agency educate foster parents on the importance of parent-child visits, and that the visits are required, and assist the foster parents with overcoming obstacles regarding these visits;~~
- ~~9. Regarding the clothing and personal items allowance available to foster children, a requirement that:
 - ~~a. The child placing agency provide each child with clothing, which is individually selected and fitted, appropriate to the season and comparable to that of other children in the community; and~~
 - ~~b. The child placing agency provide each child with age-appropriate personal hygiene items;~~~~
- ~~10. Addressing how the child placing agency will participate in preparing adolescents with the skills required for them to live independently;~~
- ~~11. Requiring that services are delivered by, or under the supervision of, professionally trained staff who:
 - ~~a. Possess knowledge of child development, family dynamics, and the effects of separation and loss within the child's developmental level;~~
 - ~~b. Have specialized knowledge, skill, or experiences required to provide or locate resources most suitable to the needs of a child in foster care and to help the child and the foster parents make effective use of those resources;~~
 - ~~c. Help foster parents improve their parenting skills and teach foster parents what they need to know in caring for a child who is not their own; and~~
 - ~~d. Work collaboratively with the legal custodian in coordinating services for a child, the child's parents, and foster parents to achieve permanent arrangements for the care of the child; and~~~~
- ~~12. Commitment to the involvement of the child's parents in planning for the child.~~

~~History: Effective April 1, 2010.~~

~~General Authority: NDCC 50-12-05~~

~~Law Implemented: NDCC 50-12~~

SECTION 42. Section 75-03-36-41 is repealed:

75-03-36-41. Rights of the foster child.

[Repealed effective April 1, 2024]

~~The child-placing agency shall have written policy indicating that the agency supports the rights of foster children. Specifically, the child-placing agency shall:~~

- ~~1. Respect the religious beliefs of the child;~~
- ~~2. Respect the biological family;~~
- ~~3. Ensure the child has visits and contacts with parents and siblings on a regular basis when not contraindicated by the custodial agency;~~
- ~~4. Allow the child to have personal property and a place for safe storage of that property;~~
- ~~5. Ensure programming takes into account cultural sensitivities;~~
- ~~6. Allow the child to express the child's opinions on issues concerning the child's care or treatment;~~
- ~~7. If developmentally appropriate, ensure the child's participation in child and family team meetings;~~
- ~~8. If developmentally appropriate, ensure the child's input into the child's plan of care;~~
- ~~9. Ensure the child's right to safety, permanency, and well-being; and~~
- ~~10. Outline the process that can be utilized by the foster child if the child feels the child's rights are not being protected.~~

~~**History:** Effective April 1, 2010.~~

~~**General Authority:** NDCC 50-12-05~~

~~**Law Implemented:** NDCC 50-12~~

SECTION 43. Section 75-03-36-42 is created as follows:

75-03-36-42. Variance.

Upon written application and good cause shown to the satisfaction of the department, the department may grant a variance regarding a specific provision of this chapter upon such terms as the department may prescribe, except no variance may permit or authorize a danger to the health or safety of any child provided care by the child-placing agency and no variance may be granted except at the discretion of the

department. A child-placing agency shall submit a written request to the department justifying the variance. A refusal to grant a variance is not subject to appeal.

History: Effective April 1, 2024.

General Authority: NDCC 50-11-03, 50-12-02, 50-12-05

Law Implemented: NDCC 50-11-03, 50-12-02, 50-12-05