

Testimony
Engrossed Senate Bill 2043-Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 4, 2019

Chairman Weisz, and members of the House Human Services Committee, I am Jonathan Alm, an attorney with the Department of Human Services (Department). I appear before you to support Engrossed Senate Bill 2043, which was introduced by Senator Kreun. This Bill relates to regulation of early childhood services and claims of child abuse and neglect.

Section 1:

The proposed changes in Section 1 of this Bill amend section 50-11.1-04 of the North Dakota Century Code regarding early childhood services. Page 2, lines 1 through 13 consist of a few clerical changes meant to enhance clarity of statutory language. The changes made on page 2, lines 15 through 30 remove the requirement that owners, operators, and staff members at a licensed early childhood program receive training and are currently certified in the use of an automated external defibrillator as providers are not required to have automated external defibrillators.

Section 2:

The proposed changes in section 2 of this Bill amend language currently in law regarding suspension of a license, self-declaration, or registration document; and makes other changes regarding authority of the Department. The change made on page 3, line 5 changes wording from “child abuse and neglect investigation” to “child abuse and neglect assessment” to more accurately represent the child abuse and neglect process the Department uses.

The proposed changes on page 3, lines 7 through 11 is to provide clarity that child abuse and child neglect are two separate accusations for which the Department to determine whether it should suspend a license, self-declaration, or registration document of an owner or operator, holder of a self-declaration, or in-home provider.

The proposed changes made on page 3, line 12 add new language to clarify that a license, self-declaration, or registration document may be suspended by the Department upon a child abuse or neglect services required determination, if continued operation is likely to jeopardize the health and safety of children present.

The proposed change on page 3, lines 18 through 24 clarifies that Department may prohibit the presence of an adult or minor household member from the premises of an early childhood program, self-declaration, or in-home provider when children are in care, upon a report of child abuse or neglect on the early childhood premises if the continued presence of that individual is likely to jeopardize the health and safety of the children present. A similar change is also made on page 3, line 31.

The proposed changes on page 3, line 28 through page 4, lines 10 would now require the Department, in addition to notifying the parent, to also notify the owner, operator, holder of a self-declaration, or in-home provider if an owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member of the program is the subject of a child abuse and neglect assessment under certain circumstances. The additional elements that now must be met for notification to be provided to parents, as well as to the owner, operator, holder of a self-declaration, or in-home provider, include that: the reported child abuse or neglect places children in the early childhood program, self-declaration, or in-home provider at risk of abuse or neglect; and that if the reported child abuse or neglect occurred outside the care, supervision, or guidance of children in an early childhood program, self-declaration, or in-home provider, there was an impact or potential impact on the care, supervision or guidance of children in the early childhood program, self-declaration, or in-home provider.

The proposed changes on page 4, lines 11 through 15 state that Department shall notify the owner, operator, holder of a self-declaration, or in-home provider, as well as the parent, that an owner, operator, holder of a self-declaration, in-home provider, staff member, or adult or minor household member is prohibited from the premises of the early childhood program, self-declaration, or in-home provider.

The proposed changes on page 4, lines 17 through 21 state that upon the conclusion and disposition of a child abuse and neglect assessment for which a determination services are required is found or for which the Department issued a notice under amended subsection 2 of section 50-11.1-07.8 under this Bill, the Department shall provide notification of the disposition to the parent of each child who at the time of the determination is receiving early childhood services.

The proposed changes on page 4, line 24 through page 5, line 2 adds new language that clarifies that the Department may reconsider a suspension or prohibition issued under Section 2 of this Bill; and that, if law enforcement requests a delay in notification, Department may delay notifying the owner, operator, holder of a self-declaration, or in-home provider, as well as the parent of any child receiving early childhood services. It also provides that in order for such a delay to be valid, a law enforcement request for this delay in notification must be provided in writing to Department within forty-eight

hours of law enforcement receiving notification of an alleged criminal matter. The notification delay may last up to sixty days, and upon request of law enforcement, may be renewed.

Section 3:

The proposed changes in this Section amend the requirements for a self-declaration applicant to operate. Minor clerical changes are made on page 5, lines 20 and 21. Page 5, line 30 through page 6, line 8 remove language that required a self-declaration applicant and their emergency designee to be certified and trained in the use of an automated external defibrillator device as self-declared providers are not required to have automated external defibrillators.

Section 4:

The proposed changes in this Section amend section 50-25.1-11 of the North Dakota Century Code, which relates to confidentiality of records regarding reporting of child abuse and neglect. New language states that Department shall notify the owner, operator, holder of a self-declaration, or in-home provider the name of the subject, summary of the facts, and the results of an assessment if the report involves the owner, operator, holder of a self-declaration, or in-home provider, an adult or minor staff member, or an adult or minor household member of the early childhood program, self-declaration, or in-home provider who is providing care to the child. Previously, this information regarding the name of the subject, summary of the facts, and result of the assessment was only to be provided to the parent or legally appointed guardian of a child receiving services at the facility.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.