

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2080
(Human Services Committee)
(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact subsections 2, 4, and 5 of section 14-15-11 and section 27-20.3-24 of the North Dakota Century Code, relating to a licensed child-placing agency investigation and adoptive child placement; to provide a statement of legislative intent; to provide for a legislative management study; to provide for a legislative management report; to provide a contingent effective date; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether ~~the adoptive home is a suitable home for the minor and whether the:~~
 - a. ~~The proposed adoption is in the best interest of the minor; and~~
 - b. ~~The adoptive home is suitable for the minor. The licensed child-placing agency shall obtain and consider the foster care assessment of an applicant who is also a licensed, certified, or approved family foster home for children in the manner prescribed by the department. An adoptive home is presumed suitable if, in the manner prescribed by the department, the petitioner is continuously licensed, certified, or approved as a family foster home for children under chapter 50-11 to furnish foster care for children for more than one year without a correction order, fiscal sanction, or license revocation proceeding, unless the custodial agency reasonably believes the use of the foster care assessment or the licensed, certified, or approved family foster home for children is not in the best interest of the minor.~~

SECTION 2. AMENDMENT. Subsection 4 of section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

4. The report of the investigation must contain a:
 - a. ~~A~~ review of the child's history; a
 - b. ~~A~~ preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; ~~and a~~
 - c. ~~A~~ postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption;
 - d. ~~The petitioner's foster care assessment to demonstrate the presumed suitability of the adoptive home if a foster care assessment was considered in the investigation under subsection 2 of this section; and any~~
 - e. ~~Any~~ other information the court requires regarding the petitioner or the minor.

SECTION 3. AMENDMENT. Subsection 5 of section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a court-appointed legal guardian or a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.

SECTION 4. AMENDMENT. Section 27-20.3-24 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-24. Disposition upon termination of parental rights.

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
 - a. Commit the child to the custody of the human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence of such an agreement, in a foster home;
 - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
 - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.
4. Unless sections 27-20.2-15 and 27-20.3-19 or the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.] applies, and if after conducting a diligent and exhaustive search, a fit and willing relative interested in adoption is not located, a human service zone director or licensed child-placing agency that places a child for adoption under subdivision a of subsection 1, shall consider granting the adoptive placement to a licensed, certified, or approved family foster home for children provider interested in adopting the child, if the licensed, certified, or approved family foster home for children provider provided foster care to the child:
 - a. For one year or longer leading up to the termination of parental rights; and
 - b. Without a correction order, fiscal sanction, or license revocation proceeding.
5. Subsection 4 does not apply if considering the adoptive placement to the licensed, certified, or approved family foster home for children provider would result in siblings who are placed for adoption being placed in separate homes.

SECTION 5. AMENDMENT. Section 27-20.3-24 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-24. Disposition upon termination of parental rights.

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
 - a. Commit the child to the custody of the human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence of such an agreement, in a foster home;
 - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
 - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.
4. Unless chapter 27-19.1 or the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.] applies, and if after conducting a diligent and exhaustive search, a fit and willing relative interested in adoption is not located, a human service zone director or licensed child-placing agency that places a child for adoption under subdivision a of subsection 1, shall consider granting the adoptive placement to a licensed, certified, or approved family foster home for children provider interested in adopting the child, if the licensed, certified, or approved family foster home for children provider provided foster care to the child:
 - a. For one year or longer leading up to the termination of parental rights; and
 - b. Without a correction order, fiscal sanction, or license revocation proceeding.
5. Subsection 4 does not apply if considering the adoptive placement to the licensed, certified, or approved family foster home for children provider would result in siblings who are placed for adoption being placed in separate homes.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - CHILD WELFARE ISSUES.

1. During the 2023-24 interim, the legislative management shall consider studying the laws and practices of the child welfare system. The study must include a review of the:
 - a. Implementation of the revisions in juvenile court procedures and the new model of practice;
 - b. Laws, administrative rules, and practices of the foster care and adoption systems;
 - c. The timeliness of termination of parental rights;
 - d. Timeliness of permanency; and
 - e. Availability of resources to support children and families experiencing out-of-home placement or risk of out-of-home placement.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 7. LEGISLATIVE INTENT - CHILD WELFARE ISSUES - LEGISLATIVE MANAGEMENT REPORT. It is the intent of the sixty-eighth legislative assembly that the department of health and human services conduct a foster care and adoption child welfare redesign. The redesign must include a review of methods to streamline adoptions by licensed, certified, or approved family foster home for children providers and identify a fit and willing relative interested in adoption earlier in the process. The department shall report its findings and recommendations to the legislative management by January 1, 2024, and every six months after the initial report during the 2023-25 biennium.

SECTION 8. CONTINGENT EFFECTIVE DATE. Section 5 of this Act becomes effective on October 1, 2024, if chapter 27-19.1 as created by section 1 of House Bill No. 1536 is approved by the sixty-eighth legislative assembly.

SECTION 9. EFFECTIVE DATE. Sections 1, 2, and 4 become effective on October 1, 2024.

SECTION 10. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2080 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 2 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State