

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE
NORTH DAKOTA LEGISLATIVE COUNCIL**

N.D. Admin. Code Chapter)	<u>REPORT OF THE</u>
75-03-14, 75-03-16, and 75-03-36,)	<u>DEPT. OF HUMAN SERVICES</u>
Family Foster Home for Children,)	March 14, 2016
Licensing of Group Homes and)	
Residential Child Care Facilities,)	
and Licensing of Child-Placing)	
Agencies)	
(Pages 336-350 and 399-402))	

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For its report, the North Dakota Department of Human Services (Department) states:

1. The proposed amendments to N.D. Admin. Code chapters 75-03-14, 75-03-16, and 75-03-36 are not related to statutory changes made by the Legislative Assembly.
2. These rules are related to changes in a federal statute or regulation, specifically P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act.
3. The Department uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of

over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.

The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on December 9, 2015. The record was held open until 5:00 p.m. on December 21, 2015, to allow written comments to be submitted. Four individuals attended the public hearing and one comment was provided. Three written comments were received within the comment period. The "Summary of Comments" is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2,461.10.
6. The proposed rules amend chapters 75-03-14, 75-03-16 and 75-03-36. The following specific changes are made:

Section 75-3-14-01. Section 75-03-14-01 is amended to add the definition of reasonable and prudent parent standard in response to P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act.

Section 75-03-14-03. Section 75-03-14-03 is amended to allow for additional flexibility of where water samples can be

tested.

Section 75-03-14-04. Section 75-03-14-04 is amended to add the federal requirements of P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act, regarding foster parents and potential foster parents demonstrating a working knowledge of the reasonable and prudent parent standard and to require all foster parents to engage in the reasonable and prudent parent standard.

Section 75-03-14-04.1. Section 75-03-14-04.1 is amended to clarify language, to create consistency across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36 regarding criminal background checks, and to allow the Department to discontinue processing a request for criminal background check for any individual who provides false or misleading information.

Section 75-03-14-08. Section 75-03-14-08 is amended to create consistency regarding excusing fingerprinting requirements across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36.

Section 75-03-16-01. Section 75-03-16-01 is amended to clarify the definition of facility and to add a definition of reasonable and prudent parent standard in response to P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act.

Section 75-03-16-05. Section 75-03-16-05 is amended to remove behavior management and crisis management from the list of trainings documented in an employee's file and to correct the use of a conjunction and punctuation.

Section 75-03-16-06. Section 75-03-16-06 is amended to ensure that facilities will have at least one employee who is responsible to meet the P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act, requirements of reasonable and prudent parent standard.

Section 75-03-16-10.1. Section 75-03-16-10.1 is created to require a residential child care facility to provide for a licensed nurse to accommodate the medical needs of children in placement onsite and to establish policy.

Section 75-03-16-12.1. Section 75-03-16-12.1 is amended to clarify language, to create consistency across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36 regarding criminal background checks, to allow the Department to discontinue processing a request for criminal background check for any individual who provides false or misleading information, to address policy requirements for criminal histories on current employees and nonemployees, and to create consistency regarding excusing fingerprinting requirements across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36.

Section 75-03-16-13. Section 75-03-16-13 is amended to lower the staff-to-child ratios, to add a requirement for a residential child care facility to provide onsite nursing services, and to require a facility to notify the Department if minimum employee-to-child ratios are not met.

Section 75-03-16-14. Section 75-03-16-14 is amended to clarify language, to create consistency in terms used throughout chapter 75-03-16, to require classroom trainings for four of the identified trainings, and to require training

documentation and retention to maintain safety and wellbeing for children in placement.

Section 75-03-16-15. Section 75-03-16-15 is amended to clarify language, to add a corrective action notification requirement, and to require policy development regarding child abuse and neglect situations.

Section 75-03-16-16. Section 75-03-16-16 is amended to clarify language, to clarify the admission and discharge procedures, and to add a requirement for the facility to develop an intake screening process.

Section 75-03-16-31. Section 75-03-16-31 is amended to clarify the need for facilities to develop and implement a facility improvement plan.

Section 75-03-16-32. Section 75-03-16-32 is created to specify the normalcy activity policy documentation requirements.

Section 75-03-36-01. Section 75-03-36-01 is amended to add the definitions of authorized agent and Department.

Section 75-03-36-12. Section 75-03-36-12 is amended to remove the duplicate language regarding the excuse of fingerprints if unusable prints occur.

Section 75-03-36-13. Section 75-03-36-13 is amended to clarify language, to create consistency across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36 regarding criminal background checks and to when an offense is known, and to address criminal background check policy requirements.

Section 75-03-36-14. Section 75-03-36-14 is amended to clarify that volunteers are required to have criminal

background checks and to remove unnecessary language.
Section 75-03-36-26. Section 75-03-36-26 is amended to allow agencies to make a legal risk adoption placement into a home beyond thirty days.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. These rules are not expected to have a fiscal impact on state revenues and expenditures, including on any funds controlled by the Department.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

Jonathan Alm
Legal Advisory Unit
North Dakota Department of Human Services
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