

HOUSE BILL NO. 1196

Introduced by

Representatives Jonas, Heilman, Ista, Longmuir, Louser, Ostlie

1 A BILL for an Act to amend and reenact section 12-60-24 of the North Dakota Century Code,
2 relating to criminal history record checks.

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

4 **SECTION 1. AMENDMENT.** Section 12-60-24 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12-60-24. Criminal history record checks.**

- 7 1. a. Each applicant, employee, or petitioner for adoption or name change who is
8 subject to a criminal history record check under subsection 2 shall consent to a
9 statewide and nationwide criminal history record check for the purpose of
10 determining suitability or fitness for a permit, license, registration, employment, or
11 adoption.
- 12 b. Each applicant, employee, registrant, or petitioner for adoption or name change
13 subject to a criminal history record check shall provide to the requesting agency
14 or entity written consent to conduct the check and to release or disclose the
15 information in accordance with state and federal law, two sets of fingerprints from
16 a law enforcement agency or other local agency authorized to take fingerprints,
17 any other identifying information requested, and a statement indicating whether
18 the applicant or employee has ever been convicted of a crime.
- 19 c. The agency, official, or entity shall submit these fingerprints to the bureau of
20 criminal investigation for nationwide criminal history record information that
21 includes resubmission of the fingerprints by the bureau of criminal investigation to
22 the federal bureau of investigation. Except if otherwise provided by law, federal
23 bureau of investigation criminal history record information obtained by an agency
24 or entity is confidential. For a request for nationwide criminal history record

1 information made under this section, the bureau of criminal investigation is the
2 sole source to receive the fingerprint submissions and responses from the federal
3 bureau of investigation. ~~A person~~An individual who takes fingerprints under this
4 section may charge a reasonable fee to offset the cost of fingerprinting. Unless
5 otherwise provided by law, the bureau of criminal investigation may charge
6 appropriate fees for criminal history information.

7 d. Fingerprints and any other identifying information the bureau has obtained under
8 this section may be retained by the bureau and the federal bureau of
9 investigation at the request of the agency, official, or entity submitting the
10 fingerprints and any other identifying information for a statewide and nationwide
11 criminal history record check. The subject of the records must be provided notice
12 of the retention of the fingerprints and any other identifying information. The
13 bureau may provide to each agency, official, or entity listed in subsection 2 of this
14 section the response of the bureau and the federal bureau of investigation any
15 statewide criminal history record information that may lawfully be made available
16 under this chapter.

17 e. The bureau may provide the results of a criminal history background check made
18 under subsection 2 of this section to another state's identification bureau or
19 central repository for the collection, maintenance, and dissemination of criminal
20 history record information when the other state's identification bureau or central
21 repository has requested the results of the criminal history background check and
22 the agency, official, or entity of the other state has equivalent authority to
23 subsection 2 of this section to request a statewide and nationwide criminal history
24 check.

25 2. The bureau of criminal investigation shall provide to each agency, official, or entity
26 listed in this subsection ~~wh~~which has requested a statewide and nationwide criminal
27 history record check, the response of the federal bureau of investigation and any
28 statewide criminal history record information that ~~may~~ lawfully may be made available
29 under this chapter within three days after the criminal history record check has been
30 completed:

- 1 a. The governing body of a city or a county, by ordinance or resolution, for a final
2 applicant for a specified occupation with the city or county.
- 3 b. The agriculture commissioner for each applicant for a license to grow or process
4 hemp under section 4.1-18.1-02.
- 5 c. The education standards and practices board for initial, re-entry, and reciprocal
6 teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance
7 and counseling services under section 15.1-13-23.
- 8 d. The North Dakota board of medicine for licenses or disciplinary investigations
9 under section 43-17-07.1, except that criminal history record checks need not be
10 made unless required by the board.
- 11 e. The private investigative and security board for licenses or registrations under
12 section 43-30-06.
- 13 f. The department of health and human services for foster care licenses, certified
14 family foster home for children providers, approved tribal foster care facilities, and
15 identified relatives under chapter 50-11, appointments of legal guardians under
16 chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the
17 criminal history record investigation must be conducted in accordance with those
18 chapters. A criminal history record investigation completed under chapter
19 25-03.2, 50-06, 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements
20 of a criminal history record investigation under either of the other four chapters.
21 The federal bureau of investigation's criminal history record investigation
22 obtained from one criminal history record investigation purpose may not be
23 reused to satisfy the requirements of another federal bureau of investigation's
24 criminal history record investigation for a different purpose.
- 25 g. The department of health and human services for criminal history record checks
26 authorized under section 50-06-01.9.
- 27 h. The chief information officer of the information technology department for certain
28 individuals under section 54-59-20.
- 29 i. A public peace officer training school that has been approved by the peace officer
30 standards and training board for enrollees in the school. The school may only
31 disclose the criminal history record information as authorized by law. The school

1 shall pay the costs for securing the fingerprints, any criminal history record
2 information made available under this chapter, and for the nationwide criminal
3 history record check. This subdivision does not apply to the highway patrol law
4 enforcement training center and enrollees who have a limited license under
5 section 12-63-09.

6 j. The North Dakota public employees retirement board for individuals first
7 employed by the public employees retirement board after July 31, 2005, who
8 have unescorted physical access to the office or any security-sensitive area of
9 the office as designated by the executive director.

10 k. The executive director of the retirement and investment office for individuals first
11 employed by the retirement and investment office after July 31, 2005, who have
12 unescorted physical access to the office or any security-sensitive area of the
13 office as designated by the executive director.

14 l. The Bank of North Dakota for a final applicant for a specified occupation with the
15 Bank as designated by the president.

16 m. Job service North Dakota for all employees, final applicants for employment with
17 job service, and contractors with access to federal tax information.

18 n. The department of health and human services for a final applicant for a job
19 opening or a current employee with the department; an individual being
20 investigated by the department; or an applicant for registration as a designated
21 caregiver or a compassion center agent under chapter 19-24.1.

22 o. The state board of nursing for applicants, licensees, registrants, or disciplinary
23 investigations under chapter 43-12.1, except that criminal history record checks
24 need not be made unless required by the board.

25 p. The state board of pharmacy for applicants or disciplinary investigations under
26 chapter 43-15 and registrations, or revocation or suspension of registrations,
27 under chapter 19-03.1, except that criminal history record checks need not be
28 made unless required by the board.

29 q. The state real estate commission for applicants, licensees, or investigations
30 under chapter 43-23, except that criminal history record checks need not be
31 made unless required by the commission.

- 1 r. The North Dakota board of social work examiners for applicants for initial
2 licensure or licensees under chapter 43-41, except that criminal history record
3 checks for licensees need not be made unless required by the board.
- 4 s. All agencies, departments, bureaus, boards, commissions, or institutions of the
5 state, including the North Dakota university system, for all employees or final
6 applicants for employment as a security guard or to otherwise provide security.
- 7 t. The office of management and budget for each individual who has access to
8 personal information as designated by the director.
- 9 u. The department of corrections and rehabilitation for all agents and employees
10 and a final applicant for employment designated by the director and for each
11 agent, employee, or a final applicant for employment of a privately operated
12 entity providing contract correctional services for the department who exercises
13 direct authority over juveniles, inmates, probationers, or parolees.
- 14 v. A city, county, or combination of cities or counties that operates a correctional
15 facility subject to chapter 12-44.1, for each agent and employee and a final
16 applicant for employment of the correctional facility who has direct contact with or
17 exercises direct authority over any juvenile or inmate of the correctional facility,
18 and for each agent, employee, or a final applicant for employment of a privately
19 operated entity providing contract correctional services for the correctional facility
20 who exercises direct authority over juveniles, inmates, probationers, or parolees.
- 21 w. The North Dakota university system for a final applicant for or employee in a
22 specified position in the university system or a university system institution or for
23 each student applying for or admitted to a specified program of study, as
24 designated by the chancellor.
- 25 x. (1) The board of a school district, for employees designated by the board,
26 provided the board is responsible for paying the costs associated with
27 obtaining a criminal history record check;
- 28 (2) The board of a multidistrict special education unit, for employees designated
29 by the board, provided the board is responsible for paying the costs
30 associated with obtaining a criminal history record check;

- 1 (3) The board of an area career and technology center, for employees
2 designated by the board, provided the board is responsible for paying the
3 costs associated with obtaining a criminal history record check;
- 4 (4) The board of a regional education association, for employees designated by
5 the board, provided the board is responsible for paying the costs associated
6 with obtaining a criminal history record check; and
- 7 (5) The superintendent of public instruction in the case of a nonpublic school or
8 a state school with a superintendent appointed by or reporting to the
9 superintendent of public instruction, for employees designated by the
10 nonpublic or state school, provided the nonpublic or state school is
11 responsible for paying the costs associated with obtaining a criminal history
12 record check.
- 13 y. (1) The board of a school district, for a final applicant seeking employment with
14 the district or otherwise providing services to the district, if that individual
15 has unsupervised contact with students, provided the board is responsible
16 for paying the costs associated with obtaining a criminal history record
17 check;
- 18 (2) The board of a multidistrict special education unit, for a final applicant
19 seeking employment with the unit or otherwise providing services to the unit,
20 if that individual has unsupervised contact with students, provided the board
21 is responsible for paying the costs associated with obtaining a criminal
22 history record check;
- 23 (3) The board of an area career and technology center, for a final applicant
24 seeking employment with the center or otherwise providing services to the
25 center, if that individual has unsupervised contact with students, provided
26 the board is responsible for paying the costs associated with obtaining a
27 criminal history record check;
- 28 (4) The board of a regional education association, for a final applicant seeking
29 employment with the association or otherwise providing services to the
30 association if that individual has unsupervised contact with students,

- 1 provided the board is responsible for paying the costs associated with
2 obtaining a criminal history record check; and
- 3 (5) The superintendent of public instruction in the case of a nonpublic school or
4 a state school with a superintendent appointed by or reporting to the
5 superintendent of public instruction, for a final applicant seeking
6 employment with the school or otherwise providing services to the school, if
7 that individual has unsupervised contact with students, provided the board is
8 responsible for paying the costs associated with obtaining a criminal history
9 record check.
- 10 (6) For purposes of this subdivision, "unsupervised contact" with students
11 means being in proximity to one or more students, on school grounds or at
12 school functions, outside the presence of an individual who has been
13 subject to a criminal history record check.
- 14 z. The racing commission for applicants for licenses under chapter 53-06.2, except
15 that criminal history record checks need not be made unless required by the
16 commission.
- 17 aa. A district court for a petition to change a name under chapter 32-28.
- 18 bb. The state board of pharmacy for a wholesale drug distributor seeking licensure
19 under chapter 43-15.3.
- 20 cc. The board of dental examiners for investigations of applicants or dentists under
21 section 43-28-11.2, except that criminal history record checks need not be made
22 unless required by the board.
- 23 dd. The department of financial institutions for each applicant for a specified
24 occupation with the department as specified by the commissioner and principal
25 owners and managing officers of applicants for a license from the department of
26 financial institutions.
- 27 ee. The office of tax commissioner for all employees, final applicants for employment
28 with the tax commissioner, and contractors with access to federal tax information.
- 29 ff. The state board of examiners for nursing home administrators for applicants for
30 licensure or licensees under chapter 43-34, except that criminal history record
31 checks for licensees need not be made unless required by the board.

- 1 gg. The marriage and family therapy licensure board for applicants, licensees, or
2 investigations under chapter 43-53, except that criminal history record checks
3 need not be made unless required by the board.
- 4 hh. The state board of chiropractic examiners for applicants, licensees, certificates,
5 or investigations under chapter 43-06, except that criminal history record checks
6 need not be made unless required by the board.
- 7 ii. Workforce safety and insurance for a final applicant for a specified occupation
8 with workforce safety and insurance as designated by the director, or for
9 contractors who may have access to confidential information as designated by
10 the director.
- 11 jj. The board of counselor examiners for applicants for licensure or licensees under
12 chapter 43-47, except that criminal history record checks for licensees need not
13 be made unless required by the board.
- 14 kk. The state board of respiratory care for applicants, licensees, or investigations
15 under chapter 43-42, except that criminal history record checks need not be
16 made unless required by the board.
- 17 ll. The North Dakota real estate appraiser qualifications and ethics board for
18 applicants for permits or registration or permittees, registrants, owners, or
19 controlling persons under chapters 43-23.3 and 43-23.5, except that criminal
20 history record checks for permittees, registrants, owners, or controlling persons
21 need not be made unless required by the board.
- 22 mm. The insurance department for criminal history record checks authorized under
23 chapters 26.1-26 and 26.1-26.8.
- 24 nn. The office of the adjutant general for employees and volunteers working with the
25 recruiting and retention, sexual assault, and youth programs.
- 26 oo. The parks and recreation department for volunteers and final applicants for
27 employment, as determined by the director of the parks and recreation
28 department.
- 29 pp. The North Dakota medical imaging and radiation therapy board of examiners for
30 licensure and licensees under chapter 43-62, except that criminal history record
31 checks for licensees need not be made unless required by the board.

- 1 qq. The game and fish department for volunteers and final applicants for
2 employment, as determined by the director of the game and fish department.
- 3 rr. The North Dakota board of massage for applicants, licensees, or investigations
4 under chapter 43-25.
- 5 ss. The North Dakota board of physical therapy for physical therapist and physical
6 therapist assistant applicants and for licensees under investigation, except that
7 criminal history record checks need not be made unless required by the board.
- 8 tt. The department of commerce for volunteers and employees providing services
9 through eligible organizations, as determined by the commissioner of commerce.
- 10 uu. The state court administrator for a guardian ad litem who provides direct services
11 to youth.
- 12 vv. The department of environmental quality for a final applicant for a job opening or
13 a current employee with the department, or an applicant for a radioactive
14 materials license under chapter 23.1-03 or a solid waste permit under chapter
15 23.1-08 as provided in section 23.1-01-11.1.
- 16 ww. The housing finance agency for criminal history record checks authorized under
17 section 54-17-07.13.
- 18 xx. The office of state treasurer for each individual who has access to federal tax
19 information.
- 20 yy. The department of health and human services for a criminal history record check
21 for a children's advocacy center as authorized under section 50-25.1-11.1.
- 22 zz. The state historical society for volunteers and final applicants for employment,
23 except that criminal history record checks need not be made unless requested by
24 the society.
- 25 aaa. The department of transportation for volunteers and final applicants for
26 employment, as determined by the director of the department of transportation.
- 27 bbb. The commission on legal counsel for indigents for a volunteer or final applicant
28 for employment, as determined by the director of the commission on legal
29 counsel for indigents.

- 1 ccc. The board of dietetic practice for applications for licensure or renewal under
2 chapter 43-44, except that criminal history record checks need not be made
3 unless required by the board.
- 4 ddd. The secretary of state for employees with access to personally identifying
5 information of residents or businesses of the state or with access to elections
6 systems that are critical infrastructure under section 44-04-24.
- 7 eee. The department of health and human services for applicants for initial licensure
8 for emergency medical services personnel, such as emergency medical
9 technicians, advanced emergency medical technicians, and paramedics, as
10 required by subdivision d of subsection 3 of section 23-27.1-03.
- 11 3. a. The bureau of criminal investigation shall conduct a statewide and nationwide
12 criminal history record check for the purpose of determining eligibility for a
13 concealed weapons license for each applicant for an initial license or the renewal
14 of a concealed weapons license under chapter 62.1-04. The nationwide criminal
15 history record check must include an inquiry of the national instant criminal
16 background check system, and if the applicant is not a United States citizen, an
17 immigration alien query.
- 18 b. Each applicant for a concealed weapons license shall provide to the bureau of
19 criminal investigation written consent to conduct the criminal history record
20 check, to maintain, release, and disclose the information in accordance with state
21 and federal law, and to make a determination on the application; two sets of
22 fingerprints from a law enforcement agency or other individual authorized to take
23 fingerprints; and any other information required under chapter 62.1-04. The
24 ~~person~~individual who takes fingerprints under this subsection may charge a
25 reasonable fee for fingerprinting.
- 26 c. The bureau of criminal investigation shall resubmit the fingerprints to the federal
27 bureau of investigation. Except as otherwise provided by law, federal bureau of
28 investigation criminal history record information is confidential.