

ARTICLE 10-18
CRIMINAL JUSTICE DATA INFORMATION SHARING

Chapter
10-18-01 Criminal Justice Data Information System

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10-18-01-01. Definitions.

As used in this article, unless the context otherwise requires:

1. "Access" means authorized access to the criminal justice information sharing system, including entry, collection, review, acquisition, and use of criminal justice data information.
2. "Advisory board" means the criminal justice information sharing advisory board.
3. "Agency" includes a criminal justice agency in the state of North Dakota as defined in North Dakota Century Code subsection 6 of section 12-60-16.1.
4. "Applicant" means any agency or individual that applies for access to the criminal justice information sharing system.
5. "Authorized agency" means an agency the attorney general has authorized to have access to the criminal justice information sharing system.
6. "Authorized user" means an individual the attorney general has authorized to have access to the criminal justice information sharing system.
7. "Biometric data" includes fingerprints, palm prints, voice prints, retinal or iris images, facial recognition, and DNA profiles.
8. "Chief officer" means the designee of the attorney general responsible for the management and operation of the criminal justice data information sharing system.
9. "Court" means the North Dakota supreme court, district courts, and municipal courts in the North Dakota judicial system.
10. "Criminal history record information" includes information collected from agencies on individuals and includes biometric data and identifiable descriptions and notations of: arrests; detentions; complaints, indictments or informations, or other criminal charges; dispositions of criminal charges, including sentencing, correctional supervision, release from custody, and events required to be reported under North Dakota Century Code section 12-60-16.2.
11. "Criminal justice data information" includes correctional facility booking records, concealed weapons license information, DNA information, North Dakota highway patrol citations, North Dakota game and fish hunting and fishing license information, watercraft license information,

central warrants information system information, sex offender and felony crimes against children registration information, criminal history record information, domestic violence protection orders, disorderly conduct restraining orders, parole and probation information, and motor vehicle and driver's license records and information.

12. "Criminal justice data information sharing system" means the data information system authorized in North Dakota Century Code section 54-12-34 and includes dissemination to authorized agencies and users of correctional facility booking records, concealed weapons license information, DNA information, North Dakota highway patrol citations, North Dakota game and fish hunting and fishing license information, watercraft license information, central warrants information system information, sex offender and felony crimes against children registration information, criminal history record information, domestic violence protection orders, disorderly conduct restraining orders, parole and probation information, and motor vehicle and driver's license records and information.
13. "NCIC" means the federal bureau of investigation national crime information center.
14. "ORI" means the originating agency identifier assigned by the federal bureau of investigation.

History: Effective January 1, 2016.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-02. Organization and operation of the criminal justice information advisory board.

1. The criminal justice information sharing advisory board consists of: the chief justice of the North Dakota supreme court or designee, the director of the department of emergency services or designee, the director of the department of corrections and rehabilitation or designee, the superintendent of the highway patrol or designee, the chief of the bureau of criminal investigation, the chief information officer of the state or designee, the director of the department of transportation or designee, a representative of a city police department, a representative of a county sheriff's office, a state's attorney, a city government representative, and a county government representative. The chief of the bureau of criminal investigation is the chairman of the advisory board.
2. The advisory board shall meet at least two times annually and for special meetings called by the chairman.
3. The attorney general shall advise and consult with the advisory board on access and security policies and procedures, eligibility for access, the collection, storage, and sharing of criminal justice and driver's license information, the systems necessary to perform these functions, and in the promulgation of administrative rules.
4. If the attorney general has denied, suspended, or revoked the access of an agency, applicant, or authorized user and the agency, applicant, or authorized user has submitted a written request for review in accordance with these rules, the advisory board shall review the request and make a recommendation to the attorney general to affirm, reverse, or modify the attorney general's decision.

History: Effective January 1, 2016.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-03. Criminal justice data information sharing access.

1. For purposes of these rules, "attorney general" includes the chief officer of the criminal justice data information sharing system designated by the attorney general.

2. The attorney general may authorize an individual employed by an agency to access the criminal justice data information sharing system.
3. The attorney general may authorize an individual not employed by an agency as defined in this article to access the criminal justice data information sharing system if the individual meets the requirements of this article unless prohibited by federal law.
4. The agency and the individual shall sign a criminal justice data information sharing system agreement in a form prescribed by the attorney general.
5. Each agency is responsible for providing its own technology infrastructure and security procedures to assure there is no unauthorized access or dissemination of criminal justice data information.
6. The agency and the individual shall agree to comply with all requirements governing access and use of the criminal justice data information sharing system before access is authorized.
7. All individual applicants for access shall complete an application form prescribed by the attorney general and shall submit to a criminal history background investigation, including the submission of biometric data as defined in North Dakota Century Code subsection 1 of section 12-60-16.1.
8. Only agencies assigned an ORI by the federal bureau of investigation, and users employed by agencies assigned an ORI, or users authorized by the attorney general unless prohibited by federal law, may be authorized to have access to the criminal justice data information sharing system.
9. The attorney general shall review all applications for access and determine whether or not to authorize the applicant access.

History: Effective January 1, 2016.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-04. Security requirements.

1. The criminal justice data information sharing system, including its system design and access requirements, is a critical infrastructure and part of a security system plan under North Dakota Century Code section 44-04-24.
2. Authorized individuals and authorized agencies shall keep access passwords and procedures secure and may not disclose access passwords and procedures to individuals or agencies that do not have access to the criminal justice information sharing system.
3. Unauthorized disclosure of any part of the criminal justice information sharing system may result in denial, suspension, or revocation of access to the authorized individual or an authorized agency.
4. Authorized individuals and agencies shall comply with the security requirements under 28 C.F.R. Part 20 and NCIC.

History: Effective January 1, 2016.

General Authority: NDCC 54-12-34

Law Implemented: NDCC 54-12-34

10-18-01-05. Denial, suspension, or revocation of access.

1. The attorney general may not grant an application for access:

- a. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, a felony offense in any state court or federal court;
 - b. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, any offense in any state court or federal court involving domestic violence, identify theft, or fraud;
 - c. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty in a military court for a violation of the military code of justice resulting in a sentence of imprisonment, dishonorable or bad conduct discharge, or both; or
 - d. If the individual applicant or the individual applicant's employing agency has committed fraud, falsification, or material misrepresentation in the application for access.
2. The attorney general may deny an application for access if a complaint, indictment, or information has been filed against the individual applicant in any state or federal court charging the individual with a felony offense or an offense involving making false statements in a governmental matter or making a false statement in an official proceeding and the individual is under oath or equivalent affirmation, or charging the individual with an offense involving giving false information to a law enforcement officer.
3. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, a class A misdemeanor offense, or equivalent offense, in any state or federal court, the attorney general may grant access not less than five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
4. If the individual applicant has pled guilty to, pled nolo contendere to, or has been found guilty of, a class B misdemeanor offense, or equivalent offense, in any state or federal court, but excluding first-time offenses for issuing checks with insufficient funds or without an account and first-time criminal traffic offenses, the attorney general may grant access not less than two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
5. The attorney general may suspend or revoke an authorized user's access for a violation of this article or for a violation of any part of the access agreement.
6. The attorney general may suspend or revoke an authorized user's access if the authorized user has been arrested or charged with a felony offense, an offense involving violence or domestic violence, or an offense involving fraud or identity theft.
7. The attorney general may suspend or revoke an authorized user's access if the authorized user has used access for noncriminal justice purposes or has disseminated or misused information obtained from the criminal justice information system for noncriminal justice purposes.
8. The attorney general may suspend or revoke an agency's access if the agency fails to report to the attorney general that an employee of the agency who is an authorized user has been charged with, pled guilty to, pled nolo contendere to, or has been found guilty of, a felony or misdemeanor criminal offense in any state or federal court, has committed a violation of this article, or has violated any part of the access agreement.
9. An agency, applicant, or authorized user shall cooperate with the attorney general in the investigation of an application for access, a breach of any security requirements, or a violation of these rules or the access agreement.
10. The attorney general may reconsider a determination to deny, suspend, or revoke access to an agency, applicant, or authorized user.

History: Effective January 1, 2016.
General Authority: NDCC 54-12-34
Law Implemented: NDCC 54-12-34

10-18-01-06. Notification and review of denial, suspension, or revocation of access.

1. If the attorney general denies an application for access, or if the attorney general suspends or revokes access, the attorney general shall notify the agency, the applicant or authorized user, or both the agency and applicant or authorized user, in writing and shall state the reasons for denial, suspension, or revocation of access.
2. An agency, applicant, or authorized user whose access has been denied, suspended, or revoked may request review of the denial, suspension, or revocation within twenty days from the date the agency or individual has received notice of denial, suspension, or revocation of access.
3. The request for review must be in writing and mailed or delivered to the chief officer of the criminal justice information sharing system and set forth with particularity the basis of the request for review and must include any supporting documentation.
4. The advisory board shall conduct the review and any documentation submitted in support of the request for review and make a recommendation to the attorney general. The advisory board may request or allow the applicant, authorized user, or a representative of the agency to personally appear before the advisory board before it makes its recommendation to the attorney general. The determination and order of the attorney general is final and not subject to appeal or further review.

History: Effective January 1, 2016.
General Authority: NDCC 54-12-34
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