

Fifty-fifth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1263

Introduced by

Representative Berg

1 A BILL for an Act to amend and reenact sections 12-60-16.9, 65-02-23, 65-02-24, 65-02-25,  
2 65-02-26, and 65-05-33 of the North Dakota Century Code, relating to criminal history record  
3 information provided by the bureau of criminal investigation to the workers compensation  
4 bureau, rewards for reporting workers' compensation fraud, amnesty periods, disclosure of  
5 claim and investigative information in workers' compensation fraud cases, and definition of  
6 fraudulent activity; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 12-60-16.9 of the 1995 Supplement to the North  
9 Dakota Century Code is amended and reenacted as follows:

10 **12-60-16.9. Criminal history record information - Fee for record check.** The  
11 bureau shall impose a fee of twenty dollars for a record check conducted for a noncriminal  
12 justice agency that is not also a court. However, the bureau may not charge a fee for a record  
13 check conducted at the request of the fraud unit of the workers compensation bureau.

14 **SECTION 2. AMENDMENT.** Section 65-02-23 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **65-02-23. Workers' compensation fraud unit.** The bureau shall establish a workers'  
17 compensation fraud unit. The bureau may employ investigators and licensed attorneys, or  
18 contract with a private investigator whenever feasible or cost effective, to investigate and review  
19 any alleged case of ~~willful misrepresentation of payroll to the bureau by an employer as fraud~~  
20 against the fund by employers, injured workers, or providers of medical or other services,  
21 including activities described under section 65-04-14 ~~and to investigate and review any alleged~~  
22 ~~case of willful filing of a false claim or false statement in relation to a claim as defined under~~  
23 ~~section 65-05-33.~~ The unit shall refer ~~a case~~ cases of ~~willful misrepresentation of payroll fraud~~

1 to the bureau ~~or of willful filing of a false claim or false statement~~ for the imposition of  
2 administrative penalties and may refer them to the appropriate authorities for prosecution.

3 **SECTION 3. AMENDMENT.** Section 65-02-24 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **65-02-24. Immunity from civil liability - Reward.** A person who notifies the bureau or  
6 who assists the bureau on any matter pertaining to the administration of this title of an alleged  
7 violation of section 65-04-14 or 65-05-33, or who provides information in the course of an  
8 investigation of an alleged violation of section 65-04-14 or 65-05-33, is not subject to civil  
9 liability for that action if the action was in good faith and without malice. At the request of the  
10 person who notifies or assists the bureau or who provides information to the bureau, the bureau  
11 may not reveal the identity of that person or disclose any information that may reveal the  
12 identity of that person to any person other than a representative of or a person rendering  
13 assistance to the bureau. The bureau may issue a reward not to exceed twenty-five percent of  
14 the actual amount recovered from the person defrauding the bureau, up to a maximum of five  
15 thousand dollars per case, to any person who provides material information leading to the  
16 successful prosecution of a person who commits an act punishable under section 65-04-14 or  
17 65-05-33. However, no employee, contractor, or agent of the bureau, including a former  
18 employee, contractor, or agent, is eligible for a reward for material information discovered in the  
19 course of performing the duties of an employee, contractor, or agent of the bureau.

20 **SECTION 4. AMENDMENT.** Section 65-02-25 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **65-02-25. Amnesty for certain claims and accounts.** After the workers'  
23 compensation fraud unit is established, the bureau may offer, not more than once every twelve  
24 months, a period of amnesty to any person who has willfully made a false claim or false  
25 statement or who has willfully misrepresented payroll, to allow that person the opportunity to  
26 close and repay the false claim, to close and repay the claim for which a false statement has  
27 been made, or to pay the appropriate premium and penalty on an account for which payroll was  
28 misrepresented. The amnesty period may not exceed sixty days. A person who receives  
29 amnesty under this section is immune from criminal prosecution relating to those acts for which  
30 amnesty is received.

**SECTION 5. AMENDMENT.** Section 65-02-26 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-26. Nondisclosure of investigative information.** Any investigative information gathered pursuant to section 65-02-23 is criminal investigative information and may not be disclosed except as provided in section 44-04-18.7. Notwithstanding sections 65-04-15 and 65-05-32, the fraud unit may provide investigative and claim file information to other fraud investigative and law enforcement entities, and gather investigative and claim file information from them.

**SECTION 6. AMENDMENT.** Section 65-05-33 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-33. Filing false claim or false statements - Penalty.**

1. ~~Any~~ A person is guilty of a class A misdemeanor if that person is claiming benefits or payment for services under this title, ~~who willfully~~ and that person:

a. Willfully files a false claim or makes a false statement;~~or,~~

b. Willfully misrepresents that person's physical condition, including conduct which misrepresents that person's physical ability.

c. Has a claim for disability benefits that has been accepted by the bureau and willfully fails to notify the bureau ~~as to~~ of:

(1) Work or other activities as required under subsection 3 of section 65-05-08;

(2) ~~the~~ The receipt of income; from work; or

(3) ~~an~~ An increase in income; ~~from employment, after the issuance of an order awarding benefits, in connection with any claim or application under this title is guilty of a class A misdemeanor, but if work.~~

2. If any of the ~~act is~~ acts in subsection 1 are committed to obtain, or pursuant to a scheme to obtain, more than five hundred dollars in benefits or payment for services, the offense is a class C felony. ~~Provided further that:~~

4. ~~For the purposes of this section, "statement" includes any testimony, claim form, notice, proof of injury, proof of return to work status, bill for services, diagnosis, prescription, hospital or doctor records, x ray, test results, or other evidence of loss, injury, or expense.~~

- 1       ~~2.~~ 3.   In addition to any other penalties provided by law, the person claiming benefits or  
2                   payment for services in violation of this section shall reimburse the bureau for any  
3                   benefits paid based upon the false claim or false statement and, if applicable,  
4                   under section 65-05-29 and shall forfeit any additional benefits relative to that  
5                   injury.
- 6       4.   For purposes of this section, "statement" includes any testimony, claim form,  
7                   notice, proof of injury, proof of return to work status, bill for services, diagnosis,  
8                   prescription, hospital or doctor records, x-ray, test results, or other evidence of  
9                   loss, injury, or expense.