

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2041

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to provide for a criminal justice information sharing board; to create and enact
2 a new section to chapter 12-60 of the North Dakota Century Code, relating to federal criminal
3 history checks; and to amend and reenact sections 12-60-16.2, 12-60-16.9, 12-60-18, and
4 62.1-04-03 of the North Dakota Century Code, relating to the collection of criminal information
5 and to the fees for criminal history checks and concealed weapons permits.

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

7 **SECTION 1. Criminal justice information sharing board - Membership - Duties**
8 **and powers.** The criminal justice information sharing board consists of the chief justice of the
9 supreme court or the chief justice's designee, the attorney general or the attorney general's
10 designee, and the chief information officer of the state. The chief information officer is
11 chairman of the board. The information technology department shall provide staff support to
12 the board. The board shall set policy relating to the collection, storage, and sharing of criminal
13 justice information and the systems necessary to perform those functions. The board shall
14 provide operational oversight for criminal justice information sharing activities and shall approve
15 and provide oversight of criminal justice information sharing budgets. The board may appoint
16 an executive committee and an advisory committee that would serve in an advisory capacity to
17 the board.

18 **SECTION 2. AMENDMENT.** Section 12-60-16.2 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **12-60-16.2. Criminal history record information - Reportable events.** Except as
21 otherwise provided in sections 12-60-16.1 through 12-60-16.10, each criminal justice agency
22 shall report to the bureau the information described in this section for each felony and
23 reportable offense so designated pursuant to section 12-60-16.4. The bureau may require the
24 criminal justice agency to provide the information in a manner that the bureau determines to be

1 the most efficient or accurate means of collection. The following criminal justice agencies shall
2 perform the duties indicated:

- 3 1. Except as otherwise provided in this subsection, each criminal justice agency that
4 makes an arrest for a reportable offense shall, with respect to that offense and the
5 person arrested, furnish to the bureau the fingerprints, charges, and descriptions of
6 the person arrested. If the arrest is made by a criminal justice agency that is a
7 state law enforcement agency, then, on request of the arresting agency, a sheriff
8 or jail administrator shall take the fingerprints. The arresting agency shall then
9 furnish the required information to the bureau. If a decision is made not to refer
10 the arrest for prosecution, the criminal justice agency making that decision shall
11 report the decision to the bureau. A criminal justice agency may make agreements
12 with other criminal justice agencies for the purpose of furnishing to the bureau
13 information required under this subsection.
- 14 2. The prosecuting attorney shall notify the bureau of all charges filed, including all
15 those added after the filing of a criminal court case, and whether charges were not
16 filed in criminal cases for which the bureau has a record of an arrest.
- 17 3. After the court pronounces sentence for a reportable offense, and if the person
18 being sentenced has not been fingerprinted with respect to that case, the
19 prosecuting attorney shall ask the court to order a law enforcement agency to
20 fingerprint that person. If the court determines that the person being so sentenced
21 has not previously been fingerprinted for the same case, the court shall order the
22 fingerprints taken. The law enforcement agency shall forward the fingerprints to
23 the bureau.
- 24 4. The prosecuting attorney having jurisdiction over a reportable offense shall furnish
25 the bureau all final dispositions of criminal cases for which the bureau has a record
26 of an arrest or a record of fingerprints reported under subsection 3. For each
27 charge, this information must include at least the following:
 - 28 a. Judgments of not guilty, judgments of guilty including the sentence
29 pronounced by the court, discharges, and dismissals in the trial court;
 - 30 b. Reviewing court orders filed with the clerk of the court which reverse or
31 remand a reported conviction or which vacate or modify a sentence; and

1 c. Judgments terminating or revoking a sentence to probation and any
2 resentencing after such a revocation.

3 5. The North Dakota state penitentiary, pardon clerk, parole board, and local
4 correctional facility administrators shall furnish the bureau with all information
5 concerning the receipt, escape, death, release, pardon, conditional pardon,
6 reprieve, parole, commutation of sentence, or discharge of an individual who has
7 been sentenced to that agency's custody for any reportable offense which is
8 required to be collected, maintained, or disseminated by the bureau. In the case of
9 an escape from custody or death while in custody, information concerning the
10 receipt and escape or death must also be furnished.

11 **SECTION 3. AMENDMENT.** Section 12-60-16.9 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **12-60-16.9. Criminal history record information - Fee for record check.** The
14 bureau shall impose a fee of ~~twenty~~ twenty-five dollars for each record check. The bureau shall
15 waive the fee for any criminal justice agency or court, and shall impose a fee of three dollars for
16 each record check for a nonprofit organization that is organized and operated in this state
17 exclusively for charitable purposes for the exclusive benefit of minors. Eighty percent of all fees
18 collected under this section must be deposited in the criminal justice information sharing fund.
19 The funds deposited into the criminal justice information sharing fund are available to the
20 information technology department, subject to legislative appropriation, for the purpose of
21 funding criminal justice information sharing activities. The remaining twenty percent of the fees
22 collected under this section must be credited to the attorney general's operating fund.

23 **SECTION 4.** A new section to chapter 12-60 of the North Dakota Century Code is
24 created and enacted as follows:

25 **Federal criminal history checks.** The bureau may file for federal processing with the
26 federal bureau of investigation a criminal history check requested by a nonprofit organization
27 engaged in activities involving direct contact with minors by the organization's employees,
28 agents, or volunteers. The nonprofit organization shall pay all costs associated with the
29 criminal history check filed with the federal bureau of investigation.

30 **SECTION 5. AMENDMENT.** Section 12-60-18 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **12-60-18. Money collected ~~paid into~~ deposited in general fund - Exception.** All
2 Except as provided in section 12-60-16.9, all moneys collected or received, including all
3 rewards for the apprehension or conviction of any criminal earned or collected by the
4 superintendent, ~~the chief of the bureau, his assistants,~~ or any employee of ~~his office~~ the
5 bureau, ~~shall be paid into~~ must be deposited in the general fund of the state.

6 **SECTION 6. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **62.1-04-03. License to carry a firearm or dangerous weapon concealed.**

- 9 1. The chief of the bureau of criminal investigation shall issue a license to carry a
10 firearm or dangerous weapon concealed upon review of an application submitted
11 to the chief if the following criteria are met:
- 12 a. The applicant has a valid reason for carrying the firearm or dangerous
13 weapon concealed, including self-protection, protection of others, or
14 work-related needs.
 - 15 b. The applicant is not a person specified in section 62.1-02-01.
 - 16 c. The applicant has the written approval for the issuance of such a license from
17 the sheriff of the applicant's county of residence, and, if the city has one, the
18 chief of police or a designee of the city in which the applicant resides. The
19 approval by the sheriff may not be given until the applicant has successfully
20 completed a background investigation in that county and has attended a
21 testing procedure conducted pursuant to rules adopted by the attorney
22 general. The testing procedure for approval of a concealed weapons license
23 must include an open book test to be given from a manual that sets forth
24 weapon safety rules and the deadly force law of North Dakota, including
25 judicial decisions and attorney general opinions, and a proficiency test
26 consisting of a course of fire to be designated by the criminal justice training
27 and statistics division of the attorney general's office. The purpose of the
28 proficiency test is only to ensure a minimal level of competency in the loading
29 and unloading of the firearm or dangerous weapon, use of safety devices and
30 basic firearm or dangerous weapon functioning, and minimal accuracy. A
31 weapons instructor certified by the attorney general shall conduct the testing

1 procedure. The attorney general shall develop rules that ensure that this
2 testing will be conducted periodically. The local agency conducting the
3 testing may assess a charge of up to fifty dollars for conducting this testing.
4 The testing procedure is not required for a renewal of a concealed weapons
5 license.

6 d. The applicant satisfactorily completes the bureau of criminal investigation
7 application form and has successfully passed a background investigation or
8 criminal records check conducted by that agency.

9 e. The applicant is not prohibited under federal law from owning, possessing, or
10 having a firearm under that person's control.

11 2. The sheriff is required to process the application within thirty days after the
12 completion of the testing portion unless the application is for renewal of a license
13 and in such case the application must be processed within thirty days after its
14 receipt by the sheriff, the chief of police is required to process the application
15 within ten working days of its receipt by the agency, and the bureau of criminal
16 investigation is required to process the application and make a determination
17 within thirty days of receipt from the forwarding agency.

18 3. The license fee for a concealed weapons license is twenty-five dollars. Ten dollars
19 of this fee must be ~~credited to the state general fund and~~ deposited in the criminal
20 justice information sharing fund. The funds deposited into the criminal justice
21 information sharing fund are available to the information technology department,
22 subject to legislative appropriation, for the purpose of funding criminal justice
23 information sharing activities. The remaining fifteen dollars of this fee must be
24 credited to the attorney general's operating fund up to a total of seventy-five
25 thousand dollars each biennium. Any collections from fifteen dollars of this fee in
26 excess of the seventy-five thousand dollars credited to the attorney general's
27 operating fund each biennium must be credited to the state general fund. The
28 license fee must be paid before the license is issued by the director of the bureau
29 of criminal investigation.

30 4. The chief of the bureau of criminal investigation shall prescribe the form of the
31 application and license, which must include the name, address, description, a

1 photograph, and the signature of the individual. The application form must require
2 sufficient information to properly conduct a background investigation and be
3 accompanied by two sets of classifiable fingerprints. The two sets of classifiable
4 fingerprints are not required for a renewal of a concealed weapons license. The
5 license is valid for three years. The license must be prepared in triplicate, and the
6 original must be delivered to the licensee, the duplicate must be sent by mail,
7 within seven days after issuance, to the sheriff of the county in which the applicant
8 resides, and the triplicate must be preserved for six years by the chief. In those
9 cases in which the licensee resides in a city, an additional copy of the license must
10 be made and sent by mail, within seven days after issuance, to the chief of police
11 of the city in which the applicant resides. The individual shall notify the chief of the
12 bureau of criminal investigation of any change of address or any other material fact
13 which would affect the restrictions on or the need for the license.

- 14 5. The chief of the bureau of criminal investigation may deny an application or revoke
15 or cancel such a license after it has been granted for any material misstatement by
16 an applicant in an application for the license or any violation of this title.
- 17 6. The applicant may appeal a denial or revocation of this license to the district court
18 of the applicant's county of residence.
- 19 7. The attorney general may adopt rules to carry out this title.