

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2260

Introduced by

Senators Robinson, Christmann, Fischer

Representatives Koppelman, Kreidt, Mueller

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24, a
2 new section to chapter 19-03.1, a new section to chapter 43-12.1, a new subsection to section
3 43-15-10, a new section to chapter 43-23, a new subsection to section 43-28-06, and a new
4 section to chapter 43-41 of the North Dakota Century Code, relating to criminal history record
5 checks; to amend and reenact sections 12-60-16.5, 12-60-16.6, 12-60-24, 15.1-13-14,
6 32-28-02, 50-11-01, 50-11-02.4, 50-11-06.8, 50-11-06.9, 50-11.3-01, and 50-12-03.2,
7 subsection 4 of section 53-06.2-05, and section 54-59-20 of the North Dakota Century Code,
8 relating to criminal history record checks; and to declare an emergency.

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

10 **SECTION 1. AMENDMENT.** Section 12-60-16.5 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **12-60-16.5. Criminal history record information - Exchange of information among**
13 **criminal justice agencies and the courts.** The bureau and other criminal justice agencies
14 shall disclose criminal history record information:

- 15 1. To a criminal justice agency that requests the information for its functions as a
16 criminal justice agency or for use in hiring or retaining its employees.
- 17 2. To a court, on request, to aid in a decision concerning sentence, probation, ~~or~~
18 release pending trial or appeal, or a name change petition.
- 19 3. Pursuant to a judicial, legislative, or administrative agency subpoena issued in this
20 state.
- 21 4. As otherwise expressly required by law.

22 **SECTION 2. AMENDMENT.** Section 12-60-16.6 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **12-60-16.6. Criminal history record information - Dissemination to parties not**
2 **described in section 12-60-16.5.** Only the bureau may disseminate criminal history record
3 information to parties not described in section 12-60-16.5. The dissemination may be made
4 only if all the following requirements are met:

- 5 1. The information has not been purged or sealed.
- 6 2. The information is of a conviction, including a conviction for violating section
7 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-06.1, or 12.1-20-11 notwithstanding
8 any disposition following a deferred imposition of sentence; or the information is of
9 a reportable event occurring within three years preceding the request.
- 10 3. The request is written and contains:
 - 11 a. The name of the requester.
 - 12 b. The fingerprints of the record subject or, if the request is made without
13 submitting the fingerprints, the request must also include the name of the
14 record subject-
 - 15 e. ~~At and at~~ at least two items of information used by the bureau to retrieve criminal
16 history records, including:
 - 17 (1) ~~The fingerprints of the record subject.~~
 - 18 (2) The state identification number assigned to the record subject by the
19 bureau.
 - 20 (3) (2) The social security number of the record subject.
 - 21 (4) (3) The date of birth of the record subject.
 - 22 (5) (4) A specific reportable event identified by date and either agency or court.
- 23 4. The identifying information supporting a request for a criminal history record does
24 not match the record of more than one individual.

25 In order to confirm a record match, the bureau may contact the requester to collect additional
26 information if a request contains an item of information that appears to be inaccurate or
27 incomplete.

28 **SECTION 3.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
29 Century Code is created and enacted as follows:

30 The department of financial institutions for each applicant for a specified
31 occupation with the department as specified by the commissioner and

1 principal owners and managing officers of applicants for a license from the
2 department of financial institutions.

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

5 **12-60-24. Criminal history record checks.**

- 6 1. a. The agencies, officials, and entities named in subsection 2 shall require each
7 applicant, employee, or petitioner for adoption or name change to consent to
8 a statewide and nationwide criminal history record check for the purpose of
9 determining suitability or fitness for a permit, license, registration,
10 employment, or adoption.
- 11 b. Each applicant, employee, registrant, or petitioner for adoption or name
12 change subject to a criminal history record check shall provide to the
13 requesting agency or entity written consent to conduct the check and to
14 release or disclose the information in accordance with state and federal law,
15 two sets of fingerprints from a law enforcement agency or other local agency
16 authorized to take fingerprints, any other identifying information requested,
17 and a statement indicating whether the applicant or employee has ever been
18 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
22 investigation to the federal bureau of investigation. Except if otherwise
23 provided by law, federal bureau of investigation criminal history record
24 information obtained by an agency or entity is confidential. For a request for
25 nationwide criminal history record information made under this section, the
26 bureau of criminal investigation is the sole source to receive the fingerprint
27 submissions and responses from the federal bureau of investigation. A
28 person who takes fingerprints under this section may charge a reasonable fee
29 to offset the cost of fingerprinting. Unless otherwise provided by law, the
30 bureau of criminal investigation may charge appropriate fees for criminal
31 history information.

- 1 2. The bureau of criminal investigation shall provide to each agency, official, or entity
2 listed in this subsection who has requested a statewide and nationwide criminal
3 history record check, the response of the federal bureau of investigation and any
4 statewide criminal history record information that may lawfully be made available
5 under this chapter:
- 6 a. The governing body of a city or a county, by ordinance or resolution, for each
7 applicant for a specified occupation with the city or county.
- 8 b. The agriculture commissioner for each applicant for a license to grow
9 industrial hemp under section 4-41-02.
- 10 c. The education standards and practices board for initial, reentry, and
11 reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and
12 school guidance and counseling services under section 15.1-13-23.
- 13 d. The medical examiners board for licenses or disciplinary investigations under
14 section 43-17-07.1, except that criminal history record checks need not be
15 made unless required by the board.
- 16 e. The private investigative and security board for licenses or registrations under
17 section 43-30-06.
- 18 f. The human services department for foster care licenses under section
19 50-11-06.8, appointments of legal guardians under section 50-11.3-01, and
20 petitions for adoptions under section 50-12-03.2, except that the criminal
21 history record investigation must be conducted in accordance with those
22 sections. A criminal history record investigation completed under section
23 50-11-06.8, 50-11.3-01, or 50-12-03.2 may be used to satisfy the
24 requirements of a criminal history record investigation under either of the
25 other two sections.
- 26 g. The human services department for carecheck registrations under section
27 50-11.1-06.2.
- 28 h. The chief information officer of the information technology department for
29 certain ~~employees~~ individuals under section 54-59-20.
- 30 i. A public peace officer training school that has been approved by the peace
31 officer standards and training board for enrollees in the school. The school

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

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

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

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

17 m. Job service North Dakota for each applicant for a specified occupation with
18 job service as designated by the executive director.

19 n. The state department of health for employees assigned duties related to
20 bioterrorism and homeland security issues as designated by the state health
21 officer; a nurse aide seeking to have a finding of neglect removed from the
22 nurse aide registry; or an individual being investigated by the state
23 department of health who holds a license, certificate, or registration in a
24 health-related field.

25 o. The state board of dental examiners for initial and credential application for a
26 license or a disciplinary investigation under chapter 43-28, except that
27 criminal history record checks need not be made unless required by the
28 board.

29 p. The board of nursing for applicants, licensees, registrants, or disciplinary
30 investigations under chapter 43-12.1, except that criminal history record
31 checks need not be made unless required by the board.

- 1 q. The state board of pharmacy for applicants or disciplinary investigations under
2 chapter 43-15 and registrations, or revocation or suspension of registrations,
3 under chapter 19-03.1, except that criminal history record checks need not be
4 made unless required by the board.
- 5 r. The state real estate commission for applicants, licensees, or investigations
6 under chapter 43-23, except that criminal history record checks need not be
7 made unless required by the commission.
- 8 s. The North Dakota board of social work examiners for applicants for initial
9 licensure or licensees under chapter 43-41, except that criminal history record
10 checks for licensees need not be made unless required by the board.
- 11 t. All agencies, departments, bureaus, boards, commissions, or institutions of
12 the state, including the North Dakota university system, for all employees or
13 applicants for employment as a security guard or to otherwise provide
14 security.
- 15 u. The office of management and budget for each individual who has access to
16 personal information as designated by the director.
- 17 v. The department of corrections and rehabilitation for all agents, employees,
18 and applicants for employment designated by the director and for each agent,
19 employee, or applicant for employment of a privately operated entity providing
20 contract correctional services for the department who exercises direct
21 authority over juveniles, inmates, probationers, or parolees.
- 22 w. A city, county, or combination of cities or counties that operates a correctional
23 facility subject to chapter 12-44.1, for all agents, employees, and applicants
24 for employment of the correctional facility who have direct contact with or
25 exercise direct authority over any juvenile or inmate of the correctional facility,
26 and for each agent, employee, or applicant for employment of a privately
27 operated entity providing contract correctional services for the correctional
28 facility who exercises direct authority over juveniles, inmates, probationers, or
29 parolees.
- 30 x. The North Dakota university system for each applicant for or employee in a
31 specified position in the university system or a university system institution or

for each student applying for or admitted to a specified program of study, as designated by the chancellor.

y. The board of a school district for employees or individuals seeking employment with the district, student teachers, or individuals otherwise providing services to the district, if those employees or individuals have unsupervised contact with students, as designated by the board. The superintendent of public instruction shall designate which employees or individuals must be responsible for paying for the costs associated with obtaining a background check.

z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.

aa. A district court for a petition to change a name under chapter 32-28.

SECTION 5. AMENDMENT. Section 15.1-13-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-14. Initial and reentry licensure of teachers - Criminal history record check. The board shall check, or cause to be checked, the criminal history record of each applicant for initial licensure and reentry licensure as a teacher in accordance with section 12-60-24. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

SECTION 6. A new section to chapter 19-03.1 of the North Dakota Century Code is created and enacted as follows:

Criminal history record checks. The board may require an applicant for registration or a registrant whose registration is subject to revocation or suspension or employees or officers of an applicant or registrant to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or registrant.

1 **SECTION 7. AMENDMENT.** Section 32-28-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **32-28-02. Change of name of person - Petition - Criminal history record checks -**
4 **Exceptions.**

- 5 1. Any person desiring to change that person's name may file a petition in the district
6 court of the county in which the person is a resident, setting forth:
- 7 a. That the petitioner has been a bona fide resident of the county for at least six
8 months before the filing of the petition.
- 9 b. The reason for which the change of the petitioner's name is sought.
- 10 c. The name requested.
- 11 2. When an individual files a petition for a name change, the court shall determine
12 whether the petitioner has a criminal history in this state or any other state. The
13 court may require the petitioner to submit to a statewide and nationwide criminal
14 history record check. The criminal history record check must be conducted in the
15 manner provided for in section 12-60-24. All costs associated with the criminal
16 history record check are the responsibility of the petitioner. This subsection does
17 not apply to a request for a name change as part of an application for a marriage
18 license under section 14-03-20, to a request for a name change in conjunction with
19 the annulment of a marriage under chapter 14-04 or the dissolution or separation
20 of a marriage under chapter 14-05, or to the change of a minor's name unless the
21 court has reason to believe the request is being made to defraud or mislead, is not
22 being made in good faith, will cause injury to an individual, or will compromise
23 public safety. If the individual petitioning for a name change has a felony
24 conviction under a law of this state or a law of another state or the federal
25 government, the request is presumed to be made in bad faith, to defraud or
26 mislead, to cause injury to an individual, or to compromise public safety. The
27 name change may not be granted unless the individual requesting the name
28 change proves by clear and convincing evidence that the request is not based
29 upon an intent to defraud or mislead, is made in good faith, will not cause injury to
30 an individual, and will not compromise public safety.

1 3. The judge of the district court, upon being duly satisfied by affidavit or proof in open
2 court of the truth of the allegations set forth in the petition, that there exists proper
3 and reasonable cause for changing the name of the petitioner, and that thirty days'
4 previous notice of the intended application has been given in the official newspaper
5 of the county in which the petitioner resides, shall order a change of the name of
6 the petitioner. Proper and reasonable cause does not exist if the court determines
7 that the request for a name change is made to defraud or mislead, is not made in
8 good faith, will cause injury to an individual, or will compromise public safety. The
9 court may waive publication of the notice when the proposed change relates only
10 to a first or given name as distinguished from a surname or upon evidence
11 satisfactory to the court that the petitioner has been the victim of domestic violence
12 as defined in section 14-07.1-01.

13 ~~3.~~ 4. If the person whose name is to be changed is a minor, the court shall consider the
14 appointment of a guardian ad litem, and notice of the intended application must be
15 published in the official newspaper of the county in which the minor resides and, if
16 different, the official newspaper of the county in which each of the minor's parents
17 reside. If the minor has a noncustodial parent, a copy of the notice must be
18 deposited in a post office in this state, postage prepaid, not later than ten days
19 after the publication of the notice, and directed to the noncustodial parent's last
20 reasonably ascertained post-office address. An affidavit of mailing of the notice
21 prepared in accordance with the North Dakota Rules of Civil Procedure must be
22 filed with the court.

23 5. If the court issues a name change order for a petitioner who has a criminal history
24 in this or any other state, the court, within ten days after the issuance of the change
25 of name order, shall report the name change to the bureau of criminal
26 investigation.

27 6. The provisions of this section may not delay the granting of a marriage license
28 under section 14-03-20, which may be granted without the change of name.

29 **SECTION 8.** A new section to chapter 43-12.1 of the North Dakota Century Code is
30 created and enacted as follows:

1 **Nursing licensure or registration - Criminal history record checks.** The board may
2 require each applicant for initial or renewed nursing licensure or registration and any licensee or
3 registrant who is the subject of a disciplinary investigation or proceeding to submit to a
4 statewide and nationwide criminal history record check. The nationwide criminal history record
5 check must be conducted in the manner provided by section 12-60-24. All costs associated
6 with obtaining a background check are the responsibility of the applicant, licensee, or registrant.
7 The board may grant a nonrenewable temporary permit to an applicant for initial or renewed
8 license or registration who submits to a criminal history record check as required by this chapter
9 if the applicant has met all other licensure or registration requirements in accordance with
10 subsection 2 of section 43-12.1-09.

11 **SECTION 9.** A new subsection to section 43-15-10 of the North Dakota Century Code
12 is created and enacted as follows:

13 To require information regarding an applicant's or licensee's fitness, qualifications,
14 and previous professional record and performance from recognized data sources,
15 including the national association of boards of pharmacy data bank, other data
16 repositories, licensing and disciplinary authorities of other jurisdictions, professional
17 education and training institutions, liability insurers, health care institutions, and law
18 enforcement agencies be reported to the board. The board may require an
19 applicant for licensure or a licensee who is the subject of a disciplinary
20 investigation to submit to a statewide and nationwide criminal history record check.
21 The nationwide criminal history record check must be conducted in the manner
22 provided by section 12-60-24. All costs associated with obtaining a background
23 check are the responsibility of the licensee or applicant.

24 **SECTION 10.** A new section to chapter 43-23 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Criminal history record checks.** The commission may require an applicant for
27 licensure or a licensee whose licensure is subject to investigation by the commission to submit
28 to a statewide and nationwide criminal history record check. The nationwide criminal history
29 record check must be conducted in the manner provided by section 12-60-24. All costs
30 associated with obtaining a background check are the responsibility of the applicant or licensee.

1 **SECTION 11.** A new subsection to section 43-28-06 of the North Dakota Century Code
2 is created and enacted as follows:

3 Require information on an applicant's or licensee's fitness, qualifications, and
4 previous professional record and performance from recognized data sources,
5 including the national practitioners data bank, other data repositories, licensing and
6 disciplinary authorities of other jurisdictions, professional education and training
7 institutions, liability insurers, health care institutions, and law enforcement agencies
8 be reported to the board. The board or its investigative disciplinary panels may
9 require an applicant for licensure or a licensee who is the subject of a disciplinary
10 investigation to submit to a statewide and nationwide criminal history record check.
11 The nationwide criminal history record check must be conducted in the manner
12 provided by section 12-60-24. All costs associated with the criminal history record
13 check are the responsibility of the licensee or applicant.

14 **SECTION 12.** A new section to chapter 43-41 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Criminal history record and child abuse and neglect checks.**

- 17 1. The board shall require each applicant for licensure and may require any licensee
18 to submit to a statewide and nationwide criminal history record check. The
19 nationwide criminal history record check must be conducted in the manner
20 provided in section 12-60-24. All costs associated with obtaining a background
21 check are the responsibility of the applicant.
- 22 2. The board shall require from each applicant for licensure and may require from any
23 licensee written consent to a child abuse information index check and authorization
24 for the department of human services or its designee to release to the board
25 reports of decisions that services are required for child abuse or neglect filed
26 pursuant to section 50-25.1-05.2. All information obtained from the department or
27 its designee is confidential and closed to the public except that it may be disclosed
28 for use in an adjudicative or judicial proceeding. All costs associated with obtaining
29 the reports are the responsibility of the applicant or licensee.

30 **SECTION 13. AMENDMENT.** Section 50-11-01 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **50-11-01. Foster care for children - License required.** No person may furnish foster
2 care for children for more than thirty days during a calendar year without first procuring a
3 license to do so from the department. The mandatory provisions of this section requiring
4 licensure do not apply when the care is provided in:

- 5 1. The home of a person related to the child by blood or marriage.
- 6 2. A home or institution under the management and control of the state or a political
7 subdivision.
- 8 3. A home or facility furnishing room and board primarily to accommodate the child's
9 educational or career and technical education needs.

10 A person providing care under subsection 1 shall submit to a criminal history record
11 investigation as required under section 50-11-06.8.

12 **SECTION 14. AMENDMENT.** Section 50-11-02.4 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **50-11-02.4. Criminal history record investigation - Fingerprinting not required.**

- 15 1. ~~a. Except as provided in section 50-11-06.9, each facility providing foster care~~
16 ~~for children shall secure from any individual employed by the facility and any~~
17 ~~adult living in the facility, but not being provided care in the facility, identifying~~
18 ~~information other than fingerprints, that is appropriate to accomplish a~~
19 ~~statewide criminal history record investigation.~~
20 b. Except as provided in section 50-11-06.9, the department shall secure from
21 any individual employed by, or providing care in, an adult family foster care
22 facility and any adult living in the facility, but not being provided care in the
23 facility, identifying information other than fingerprints, that is appropriate to
24 accomplish a statewide criminal history record investigation.
- 25 2. Fingerprints need not be taken and a nationwide background check need not be
26 made if an individual:
 - 27 a. Has resided continuously in this state for eleven years or since reaching age
28 eighteen, whichever is less;
 - 29 b. Is on active United States military duty or has resided continuously in this
30 state since receiving an honorable discharge; or
 - 31 c. Is excused from providing fingerprints under rules adopted by the department.

3. The department shall verify that sufficient identifying information has been provided. Upon verification, the department shall submit that information to the bureau of criminal investigation.
4. The bureau of criminal investigation shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.
5. The department shall pay the cost of securing any criminal history record information made available under chapter 12-60.
6. The department shall consult with the bureau of criminal investigation to determine the identifying information, other than fingerprints, appropriate to accomplish a statewide criminal history record investigation.
7. The department may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

SECTION 15. AMENDMENT. Section 50-11-06.8 of the North Dakota Century Code is amended and reenacted as follows:

50-11-06.8. Criminal history record investigation - Fingerprinting required.

1. ~~Except as provided in sections 50-11-02.4 and 50-11-06.9, each~~ Each facility providing foster care for children shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:
 - a. Any individual employed by, or providing care in, the facility; and
 - b. Any adult living in the facility, but not being provided care in the facility.
2. The facility shall assure that information obtained under subsection 1 is provided to the department.
3. Upon receipt of all fingerprints and necessary information relating to a license request, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.

- 1 4. The bureau of criminal investigation shall request a nationwide background check
- 2 from the federal bureau of investigation and, upon receipt of a response, provide
- 3 the response of the federal bureau of investigation to the department. The bureau
- 4 shall also provide any criminal history record information that may lawfully be made
- 5 available under chapter 12-60 to the department.
- 6 5. Upon request by the operators of a facility, a law enforcement agency shall take
- 7 fingerprints of persons described in this section if the request is made for purposes
- 8 of this section.
- 9 6. The department shall pay the cost of securing fingerprints, any criminal history
- 10 record information made available under chapter 12-60, and a nationwide
- 11 background check.
- 12 7. An agency that takes fingerprints as provided under this section may charge a
- 13 reasonable fee to offset the costs of the fingerprinting.
- 14 8. Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall
- 15 secure from a law enforcement agency or any other agency authorized to take
- 16 fingerprints, two sets of fingerprints and all other information necessary to secure
- 17 state criminal history record information and a nationwide background check under
- 18 federal law from:
- 19 a. Any individual employed by, or providing care in, an adult family foster care
- 20 facility; and
- 21 b. Any adult living in an adult family foster care facility, but not being provided
- 22 care in the facility.
- 23 9. A criminal history record investigation completed under this section may be used to
- 24 satisfy the criminal history record investigation requirements of sections 50-11.3-01
- 25 and 50-12-03.2.

26 **SECTION 16. AMENDMENT.** Section 50-11-06.9 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **50-11-06.9. Criminal history record investigation - When not required.** A criminal
29 history record investigation may not be required, under section 50-11-06.8 or 50-11-02.4, of a
30 family foster care home for children or of a family foster care home for adults licensed or

1 approved on August 1, 1999, for so long as that home remains continuously licensed or
2 approved.

3 **SECTION 17. AMENDMENT.** Section 50-11.3-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **50-11.3-01. Criminal history record investigation required.**

- 6 1. Before appointment as a legal guardian under chapter 27-20, the individual to be
7 appointed legal guardian must be subject to an assessment that includes the result
8 of a criminal history record investigation made under this section. In addition, any
9 adult living in the household of the individual to be appointed legal guardian must
10 be subject to a criminal history record investigation made under this section.
- 11 2. ~~Except as provided in subsection 6, an~~ An individual to be appointed legal
12 guardian or any adult living in that individual's household as described in
13 subsection 1 shall secure, from a law enforcement agency or other agency
14 authorized to take fingerprints, two sets of fingerprints and shall provide all other
15 information necessary to secure state criminal history record information and a
16 nationwide background check under federal law. Upon a request made under this
17 section, a law enforcement agency shall take fingerprints of any individual to be
18 appointed legal guardian or any adult living in that individual's household as
19 described in subsection 1 and may charge a reasonable fee to offset the cost of
20 fingerprinting.
- 21 3. An individual to be appointed legal guardian or any adult living in that individual's
22 household as described in subsection 1 shall assure that information obtained
23 under subsection 2 is provided to the department of human services.
- 24 4. Upon receipt of all fingerprints and necessary information relating to a criminal
25 history record investigation, the department of human services shall submit those
26 fingerprints and that information to the bureau of criminal investigation.
- 27 5. The bureau of criminal investigation shall request a nationwide background check
28 from the federal bureau of investigation and, upon receipt of a response, provide
29 the response of the federal bureau of investigation to the department of human
30 services. The bureau of criminal investigation shall also provide any criminal
31 history record information that may lawfully be made available under chapter 12-60

to the department of human services. The bureau of criminal investigation may charge a reasonable fee to offset the cost of providing any criminal history record information and may require payment of any charge imposed by the federal bureau of criminal investigation for a nationwide background check.

6. ~~Fingerprints need not be taken and a nationwide background check need not be made if an individual:~~

a. ~~Has resided continuously in this state for eleven years or since reaching age eighteen, whichever is less;~~

b. ~~Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or~~

c. ~~Is excused from providing fingerprints under rules adopted by the department of human services.~~

7. The department of human services shall provide an individual to be appointed legal guardian or any adult living in that individual's household, who provided the department with information under subsection 2, with any information received under this section from the bureau of criminal investigation which the department of human services is not prevented by federal law from disclosing to the individual to be appointed legal or any adult living in that individual's household.

8. 7. The department of human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-12-03.2.

SECTION 18. AMENDMENT. Section 50-12-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03.2. Criminal history record investigation required.

1. A child-placing agency shall include, in any adoptive home study report, the results of a criminal history record investigation made under this section. If the results reveal a conviction of a crime described in chapter 50-11.3, the home study report must include a determination that a home provided by the prospective adoptive parent is not a suitable home for the placement of any child and a recommendation

that the petition for adoption be denied. A child-placing agency shall consider any criminal history record information available when making a recommendation in a home study report.

2. ~~Except as provided in subsection 6, a~~ A child-placing agency shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from any prospective adoptive parent and any adult living in the prospective adoptive parent's household. Upon a request of a child-placing agency, a law enforcement agency shall take fingerprints of any prospective adoptive parent and any adult living in the prospective adoptive parent's household for purposes of this section. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of fingerprinting.
3. The child-placing agency shall assure that information obtained under subsection 2 is provided to the department of human services and shall arrange payment to the bureau of criminal investigation sufficient to defray the cost of securing criminal history record information under this section.
4. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department of human services shall submit those fingerprints and that information to the bureau of criminal investigation.
5. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department of human services. The bureau of criminal investigation shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
6. ~~Fingerprints need not be taken and a nationwide background check need not be made if a prospective adoptive parent:~~
 - a. ~~Has resided continuously in this state for eleven years or since reaching age eighteen, whichever is less;~~

~~b. Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or~~

~~e. Is excused from providing fingerprints under rules adopted by the department of human services.~~

~~7.~~ The department of human services shall provide the child-placing agency with any information, received under this section from the bureau of criminal investigation, that the department of human services is not prevented by federal law from disclosing to the child-placing agency.

~~8.~~ 7. The department of human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-11.3-01.

SECTION 19. AMENDMENT. Subsection 4 of section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. The commission may obtain a statewide and nationwide criminal history record check from the bureau of criminal investigation, ~~without charge,~~ criminal history record information as required in the licensing process for the purpose of determining suitability or fitness for a license. The nationwide check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant for a license.

SECTION 20. AMENDMENT. Section 54-59-20 of the North Dakota Century Code is amended and reenacted as follows:

~~**54-59-20. Employees of the department– Security background information.**~~ The chief information officer shall require as a condition of employment with the department that individuals who have unescorted physical access to the facilities or other security sensitive areas of the department designated by the chief information officer submit to a criminal history record check in accordance with section 12-60-24. The chief information officer may require as

1 a condition of contracting with the department or other state agency or department with respect
2 to an information technology project that any individual employed by the contractor or a
3 subcontractor to perform the work under the contract submit to a criminal history record check
4 in accordance with section 12-60-24.

5 **SECTION 21. EMERGENCY.** Sections 3, 13, 14, 15, 16, 17, and 18 of this Act are
6 declared to be an emergency measure.