

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, and a new section to chapter 43-41 of the North  
4 Dakota Century Code, relating to criminal history record checks; to amend and reenact sections  
5 12-60-16.5, 12-60-16.6, 12-60-24, 15.1-06-06, 15.1-13-14, 32-28-02, 50-11-01, 50-11-02.4,  
6 50-11-06.8, 50-11-06.9, 50-11.3-01, and 50-12-03.2, subsection 4 of section 53-06.2-05, and  
7 section 54-59-20 of the North Dakota Century Code, relating to criminal history record checks;  
8 to provide for a correctional facility review committee; 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 least two items of information used by the bureau to retrieve  
16           criminal 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  
23           court.
- 24          4. The identifying information supporting a request for a criminal history record does  
25          not match the record of more than one individual.

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

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

1           The department of financial institutions for each applicant for a specified  
2           occupation with the department as specified by the commissioner and  
3           principal owners and managing officers of applicants for a license from the  
4           department of financial institutions.

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

7           **12-60-24. Criminal history record checks.**

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

to offset the cost of fingerprinting. Unless otherwise provided by law, the bureau of criminal investigation may charge appropriate fees for criminal history information.

2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:

- a. The governing body of a city or a county, by ordinance or resolution, for ~~each~~ a final applicant for a specified occupation with the city or county.
- b. The agriculture commissioner for each applicant for a license to grow industrial hemp under section 4-41-02.
- c. The education standards and practices board for initial, reentry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.
- d. The medical examiners board for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.
- e. The private investigative and security board for licenses or registrations under section 43-30-06.
- f. The department of human services ~~department~~ for foster care licenses under ~~section 50-11-06.8~~ chapter 50-11, appointments of legal guardians under ~~section 50-11.3-04~~ chapter 50-11.3, and petitions for adoptions under ~~section 50-12-03.2~~ chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those ~~sections~~ chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.
- g. The department of human services ~~department~~ for carecheck registrations under section 50-11.1-06.2.

- 1           h.    The chief information officer of the information technology department for  
2                certain ~~employees~~ individuals under section 54-59-20.
- 3           i.    A public peace officer training school that has been approved by the peace  
4                officer standards and training board for enrollees in the school. The school  
5                may only disclose the criminal history record information as authorized by  
6                law. The school shall pay the costs for securing the fingerprints, any criminal  
7                history record information made available under this chapter, and for the  
8                nationwide criminal history background check. This subdivision does not  
9                apply to the highway patrol law enforcement training center and enrollees  
10              who have a limited license under section 12-63-09.
- 11          j.    The North Dakota public employees retirement board for individuals first  
12                employed by the public employees retirement board after July 31, 2005, who  
13                have unescorted physical access to the office or any security-sensitive area  
14                of the office as designated by the executive director.
- 15          k.    The executive director of the retirement and investment office for individuals  
16                first employed by the retirement and investment office after July 31, 2005,  
17                who have unescorted physical access to the office or any security-sensitive  
18                area of the office as designated by the executive director.
- 19          l.    The Bank of North Dakota for ~~each~~ a final applicant for a specified occupation  
20                with the Bank as designated by the president.
- 21          m.    Job service North Dakota for ~~each~~ a final applicant for a specified occupation  
22                with job service as designated by the executive director.
- 23          n.    The state department of health for ~~employees assigned duties related to~~  
24                ~~bioterrorism and homeland security issues~~ a final applicant for or an  
25                employee in a specified occupation with the department as designated by the  
26                state health officer; ~~a nurse aide seeking to have a finding of neglect removed~~  
27                ~~from the nurse aide registry; or~~ an individual being investigated by the state  
28                department of health ~~who holds a license, certificate, or registration in a~~  
29                ~~health-related field; or, when requested by the department, an applicant for~~  
30                registration, certification, or licensure by the department.

- 1           o.   The board of nursing for applicants, licensees, registrants, or disciplinary  
2               investigations under chapter 43-12.1, except that criminal history record  
3               checks need not be made unless required by the board.
- 4           p.   The state board of pharmacy for applicants or disciplinary investigations  
5               under chapter 43-15 and registrations, or revocation or suspension of  
6               registrations, under chapter 19-03.1, except that criminal history record  
7               checks need not be made unless required by the board.
- 8           q.   The state real estate commission for applicants, licensees, or investigations  
9               under chapter 43-23, except that criminal history record checks need not be  
10              made unless required by the commission.
- 11          r.   The North Dakota board of social work examiners for applicants for initial  
12              licensure or licensees under chapter 43-41, except that criminal history record  
13              checks for licensees need not be made unless required by the board.
- 14          s.   All agencies, departments, bureaus, boards, commissions, or institutions of  
15              the state, including the North Dakota university system, for all employees or  
16              final applicants for employment as a security guard or to otherwise provide  
17              security.
- 18          t.   The office of management and budget for each individual who has access to  
19              personal information as designated by the director.
- 20          u.   The department of corrections and rehabilitation for all agents and employees  
21              and a final applicant for employment designated by the director and for each  
22              agent, employee, or a final applicant for employment of a privately operated  
23              entity providing contract correctional services for the department who  
24              exercises direct authority over juveniles, inmates, probationers, or parolees.
- 25          v.   A city, county, or combination of cities or counties that operates a correctional  
26              facility subject to chapter 12-44.1, for each agent and employee and a final  
27              applicant for employment of the correctional facility who has direct contact  
28              with or exercises direct authority over any juvenile or inmate of the  
29              correctional facility, and for each agent, employee, or a final applicant for  
30              employment of a privately operated entity providing contract correctional

1                   services for the correctional facility who exercises direct authority over  
2                   juveniles, inmates, probationers, or parolees.

3           w.   The North Dakota university system for a final applicant for or employee in a  
4                   specified position in the university system or a university system institution or  
5                   for each student applying for or admitted to a specified program of study, as  
6                   designated by the chancellor.

7           x.   The governing board of a public school or, for a nonpublic school, the  
8                   superintended of public instruction, for employees designated by the  
9                   governing board or nonpublic school. The governing board or the nonpublic  
10                  school is responsible for paying the costs associated with obtaining a  
11                  background check.

12          y.   The governing board of a public school or, for a nonpublic school, the  
13                  superintendent of public instruction, for a final applicant for seeking  
14                  employment with the school or otherwise providing services to the school, if  
15                  that individual has unsupervised contact with the students. For purposes of  
16                  this subdivision, "unsupervised contact" with students means being in  
17                  proximity to one or more students, on school grounds or at school functions,  
18                  outside the presence of an individual who has been subject to a criminal  
19                  background check. The governing board or the nonpublic school is  
20                  responsible for paying the costs associated with obtaining a background  
21                  check.

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

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

26           **SECTION 5. AMENDMENT.** Section 15.1-06-06 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **15.1-06-06. Approval of public and nonpublic schools.** Each public and nonpublic  
29 school in this state offering elementary or secondary education to students must be approved  
30 by the superintendent of public instruction. Except as otherwise provided by law, the  
31 superintendent may not approve a school unless:

- 1           1. Each classroom teacher is licensed to teach by the education standards and
- 2           practices board or approved to teach by the education standards and practices
- 3           board;
- 4           2. Each classroom teacher is teaching only in those course areas or fields for which
- 5           the teacher is licensed or for which the teacher has received an exception under
- 6           section 15.1-09-57;
- 7           3. The students are offered all subjects required by law; ~~and~~
- 8           4. The school is in compliance with all local and state health, fire, and safety laws;
- 9           and
- 10          5. The school has conducted all criminal history record checks required by section
- 11          12-60-24.

12           **SECTION 6. AMENDMENT.** Section 15.1-13-14 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **15.1-13-14. Initial and reentry licensure of teachers - Criminal history record**  
15 **check.** The board shall check, or cause to be checked, the criminal history record of each  
16 applicant for initial licensure and reentry licensure as a teacher in accordance with section  
17 12-60-24. All costs associated with the background check and with obtaining and processing  
18 the fingerprints are the responsibility of the applicant. Criminal history records provided to the  
19 board pursuant to this section are confidential and closed to the public and may only be used  
20 by the board for determining an applicant's eligibility for licensure and obtaining documentation  
21 to support a denial of licensure.

22           **SECTION 7.** A new section to chapter 19-03.1 of the North Dakota Century Code is  
23 created and enacted as follows:

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

30           **SECTION 8. AMENDMENT.** Section 32-28-02 of the North Dakota Century Code is  
31 amended and reenacted as follows:



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

**Exceptions.**

1. Any person desiring to change that person's name may file a petition in the district court of the county in which the person is a resident, setting forth:
  - a. That the petitioner has been a bona fide resident of the county for at least six months before the filing of the petition.
  - b. The reason for which the change of the petitioner's name is sought.
  - c. The name requested.
2. When an individual files a petition for a name change, the court shall determine whether the petitioner has a criminal history in this state or any other state. The court may require the petitioner to submit to a statewide and nationwide criminal history record check. The criminal history record check must be conducted in the manner provided for in section 12-60-24. All costs associated with the criminal history record check are the responsibility of the petitioner. This subsection does not apply to a request for a name change as part of an application for a marriage license under section 14-03-20, to a request for a name change in conjunction with the annulment of a marriage under chapter 14-04 or the dissolution or separation of a marriage under chapter 14-05, or to the change of a minor's name unless the court has reason to believe the request is being made to defraud or mislead, is not being made in good faith, will cause injury to an individual, or will compromise public safety. If the individual petitioning for a name change has a felony conviction under a law of this state or a law of another state or the federal government, the request is presumed to be made in bad faith, to defraud or mislead, to cause injury to an individual, or to compromise public safety. The name change may not be granted unless the individual requesting the name change proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.
3. The judge of the district court, upon being duly satisfied by affidavit or proof in open court of the truth of the allegations set forth in the petition, that there exists proper and reasonable cause for changing the name of the petitioner, and that

thirty days' previous notice of the intended application has been given in the official newspaper of the county in which the petitioner resides, shall order a change of the name of the petitioner. Proper and reasonable cause does not exist if the court determines that the request for a name change is made to defraud or mislead, is not made in good faith, will cause injury to an individual, or will compromise public safety. The court may waive publication of the notice when the proposed change relates only to a first or given name as distinguished from a surname or upon evidence satisfactory to the court that the petitioner has been the victim of domestic violence as defined in section 14-07.1-01.

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

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

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

**SECTION 9.** A new section to chapter 43-12.1 of the North Dakota Century Code is created and enacted as follows:

**Nursing licensure or registration - Criminal history record checks.** The board may require each applicant for initial or renewed nursing licensure or registration and any licensee or registrant who is the subject of a disciplinary investigation or proceeding to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record

1 check must be conducted in the manner provided by section 12-60-24. All costs associated  
2 with obtaining a background check are the responsibility of the applicant, licensee, or registrant.  
3 The board may grant a nonrenewable temporary permit to an applicant for initial or renewed  
4 license or registration who submits to a criminal history record check as required by this  
5 chapter if the applicant has met all other licensure or registration requirements in accordance  
6 with subsection 2 of section 43-12.1-09.

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

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

20       **SECTION 11.** A new section to chapter 43-23 of the North Dakota Century Code is  
21 created and enacted as follows:

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

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

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

1       1.   The board shall require each applicant for licensure and may require any licensee  
2       to submit to a statewide and nationwide criminal history record check. The  
3       nationwide criminal history record check must be conducted in the manner  
4       provided in section 12-60-24. All costs associated with obtaining a background  
5       check are the responsibility of the applicant.

6       2.   The board shall require from each applicant for licensure and may require from any  
7       licensee written consent to a child abuse information index check and authorization  
8       for the department of human services or its designee to release to the board  
9       reports of decisions that services are required for child abuse or neglect filed  
10      pursuant to section 50-25.1-05.2. All information obtained from the department or  
11      its designee is confidential and closed to the public except that it may be disclosed  
12      for use in an adjudicative or judicial proceeding. All costs associated with  
13      obtaining the reports are the responsibility of the applicant or licensee.

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

16      **50-11-01. Foster care for children - License required.** No person may furnish foster  
17 care for children for more than thirty days during a calendar year without first procuring a  
18 license to do so from the department. The mandatory provisions of this section requiring  
19 licensure do not apply when the care is provided in:

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

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

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

29      **50-11-02.4. Criminal history record investigation - Fingerprinting not required.**

- 30      1.   a.   ~~Except as provided in section 50-11-06.9, each facility providing foster care~~  
31          ~~for children shall secure from any individual employed by the facility and any~~

~~adult living in the facility, but not being provided care in the facility, identifying  
information other than fingerprints, that is appropriate to accomplish a  
statewide criminal history record investigation.~~

b. Except as provided in section 50-11-06.9, the department shall secure from  
any individual employed by, or providing care in, an adult family foster care  
facility and any adult living in the facility, but not being provided care in the  
facility, identifying information other than fingerprints, that is appropriate to  
accomplish a statewide criminal history record investigation.

2. 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.

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.
4. 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. The bureau shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
5. Upon request by the operators of a facility, a law enforcement agency shall take fingerprints of persons described in this section if the request is made for purposes of this section.
6. The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check.
7. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.
8. Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall secure from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and 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, an adult family foster care facility; and
- b. Any adult living in an adult family foster care facility, but not being provided care in the facility.

9. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11.3-01 and 50-12-03.2.

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

**50-11-06.9. Criminal history record investigation - When not required.** A criminal history record investigation may not be required, under section 50-11-06.8 or 50-11-02.4, of a family foster care home for ~~children or of a family foster care home for~~ adults licensed or approved on August 1, 1999, for so long as that home remains continuously licensed or approved.

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

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

1. Before appointment as a legal guardian under chapter 27-20, the individual to be appointed legal guardian must be subject to an assessment that includes the result of a criminal history record investigation made under this section. In addition, any adult living in the household of the individual to be appointed legal guardian must be subject to a criminal history record investigation made under this section.
2. ~~Except as provided in subsection 6, an~~ An individual to be appointed legal guardian or any adult living in that individual's household as described in subsection 1 shall secure, from a law enforcement agency or 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. Upon a request made under this section, a law enforcement agency shall take fingerprints of any individual to be

1           appointed legal guardian or any adult living in that individual's household as  
2           described in subsection 1 and may charge a reasonable fee to offset the cost of  
3           fingerprinting.

4           3. An individual to be appointed legal guardian or any adult living in that individual's  
5           household as described in subsection 1 shall assure that information obtained  
6           under subsection 2 is provided to the department of human services.

7           4. Upon receipt of all fingerprints and necessary information relating to a criminal  
8           history record investigation, the department of human services shall submit those  
9           fingerprints and that information to the bureau of criminal investigation.

10          5. The bureau of criminal investigation shall request a nationwide background check  
11          from the federal bureau of investigation and, upon receipt of a response, provide  
12          the response of the federal bureau of investigation to the department of human  
13          services. The bureau of criminal investigation shall also provide any criminal  
14          history record information that may lawfully be made available under chapter 12-60  
15          to the department of human services. The bureau of criminal investigation may  
16          charge a reasonable fee to offset the cost of providing any criminal history record  
17          information and may require payment of any charge imposed by the federal bureau  
18          of criminal investigation for a nationwide background check.

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

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

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

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

27          7. The department of human services shall provide an individual to be appointed  
28          legal guardian or any adult living in that individual's household, who provided the  
29          department with information under subsection 2, with any information received  
30          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~~

~~c. 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:

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

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

12           ~~**54-59-20. Employees of the department–**~~ **Security background information.** The  
13 chief information officer shall require as a condition of employment with the department that  
14 individuals who have unescorted physical access to the facilities or other security sensitive  
15 areas of the department designated by the chief information officer submit to a criminal history  
16 record check in accordance with section 12-60-24. The chief information officer may require as  
17 a condition of contracting with the department or other state agency or department with respect  
18 to an information technology project that any individual employed by the contractor or a  
19 subcontractor to perform the work under the contract submit to a criminal history record check  
20 in accordance with section 12-60-24.

21           **SECTION 21. CORRECTIONAL FACILITY REVIEW COMMITTEE - MEMBERSHIP -**  
22 **DUTIES - RECOMMENDATIONS.**

- 23           1.   During the 2007-08 interim, the legislative council shall appoint a correctional  
24                   facility review committee. The membership of the committee must include six  
25                   members of the legislative assembly selected by the legislative council. The  
26                   membership of the committee must include:
- 27               a.   Three members of the house of representatives, two of whom must represent  
28                   the majority faction of the house of representatives and one of whom must  
29                   represent the minority faction of the house of representatives; and

- 1           b.   Three members of the senate, two of whom must represent the majority  
2           faction of the senate and one of whom must represent the minority faction of  
3           the senate.
- 4           2.   The legislative council chairman shall designate the committee chairman and vice  
5           chairman.
- 6           3.   The committee shall operate according to the statutes and procedures governing  
7           the operation of other legislative council interim committees.
- 8           4.   The committee shall engage consultant and architectural services, subject to  
9           legislative council approval, for the development of the following three correctional  
10          facility concepts:
  - 11          a.   The construction of a new correctional facility on the existing state  
12          penitentiary site;
  - 13          b.   The construction of a new correctional facility at a site other than the state  
14          penitentiary site; and
  - 15          c.   The remodeling of the existing state penitentiary facility.
- 16          5.   Each of the three correctional facility concepts developed by the consultant and  
17          architect must:
  - 18          a.   Include a master plan, staffing plan, and a cost-benefit analysis;
  - 19          b.   Be based upon housing a population of between nine hundred and one  
20          thousand inmates;
  - 21          c.   Include options for expansion;
  - 22          d.   Take into consideration the transfer of the inmates at the Missouri River  
23          correctional center to the new or remodeled facility; and
  - 24          e.   Take into consideration the facility and staffing needs of the James River  
25          correctional center.
- 26          6.   In developing the concepts, the committee shall seek the input of the department  
27          of corrections and rehabilitation.
- 28          7.   Before June 1, 2008, the committee shall select one of the three concepts and  
29          recommend the selected concept to the legislative council.

1           8.    The legislative council shall consider the recommendation and approve or reject  
2                the recommendation. If approved, the legislative council shall forward the  
3                recommendation to the governor. The governor may:

4           a.    Accept the recommendation and submit the recommendation to the  
5                emergency commission and the budget section of the legislative council for  
6                approval;

7           b.    Call a special session of the legislative assembly to address the correctional  
8                facility issue; or

9           c.    Defer any further action on the issue to the sixty-first legislative assembly.

10          9.    Notwithstanding North Dakota Century Code section 54-23.3-04, the director of the  
11                department of corrections and rehabilitation may not advertise for bids or issue a  
12                request for qualifications for a construction manager for construction of a new  
13                correctional facility or remodeling of the existing state penitentiary until the  
14                recommendation is accepted by the governor and approved by the emergency  
15                commission and the budget section.

16          **SECTION 22. EMERGENCY.** Sections 3, 13, 14, 15, 16, 17, 18, and 21 of this Act are  
17   declared to be an emergency measure.