

ESTABLISHING A STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION SYSTEM - BACKGROUND MEMORANDUM

Section 2 of House Bill No. 1219 (attached as an [appendix](#)) directs a study of the feasibility and desirability of establishing a statewide automated victim information and notification system to provide information and notify registered victims regarding the status of an offender. Section 1 of House Bill No. 1219 authorizes the Information Technology Department to establish a statewide automated victim information and notification system. The text of this section is provided later in this memorandum.

BACKGROUND

North Dakota Law

Regarding Victims' Rights

North Dakota Century Code (NDCC) Chapter 12.1-34 provides for the rights granted to a victim of a crime in North Dakota. Section 12.1-34-02 provides that victims of a crime have certain rights including the right to receive prompt notice of the inmate's release from custody, including a work release program, community residential program, or transfer to mental health facility; to be informed of the parole and pardon process, including notice of any pending review; to submit a written statement to the Parole Board and Pardon Advisory Board concerning the impact of the crime; to be notified of the Parole Board and Pardon Advisory Board's decision; to be notified of protection available in cases of intimidation; and to be informed of appropriate and available community services. Section 12.1-34-03 provides that victims and witnesses have the following responsibilities to aid in the prosecution of crime including to make a timely report of the crime; cooperate with law enforcement authorities throughout the investigation, prosecution, and trial; testify at trial; and notify law enforcement authorities, prosecuting attorney, custodial authority, Parole Board, pardon clerk, and court of any change of address.

North Dakota Century Code Chapter 12.1-34 also establishes the entities that are responsible for providing victim services and victim information and notification. Section 12.1-34-06 designates the prosecuting attorney as the person responsible for securing for victims and witnesses of crime the rights and services described in Chapter 12.1-34. Section 12.1-34-02 provides that law enforcement is responsible for providing information to victims and witnesses regarding investigations and arrests. This section also provides that custodial authorities, which include the Department of Corrections and Rehabilitation and the state's jails and regional correctional facilities, are responsible for informing victims and witnesses if a criminal defendant receives a temporary, provisional, or final release from custody or if the defendant escapes from custody. The

notification also must include information regarding the transfer of the defendant to a work release program, community residential program, or transfer to a mental health facility.

In addition to the rights and responsibilities that NDCC Chapter 12.1-34 provides to victims and witnesses, Chapter 12.1-35 addresses certain services and rights that are to be provided to victims and witnesses who are children. Section 12.1-35-02 provides that state's attorneys are encouraged to provide certain additional services to children who are involved in criminal proceedings as victims or witnesses including explanations of all legal proceedings in which the child will be involved; advice to the court concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child; information about and referrals to appropriate social services programs to assist the child and the child's family members in coping with the emotional impact of the crime; and information about the availability of a child development specialist to ensure questions asked of the witness are chronologically and developmentally appropriate.

The Department of Corrections and Rehabilitation, through its victim services program, employs a victim coordinator who is responsible for informing victims of inmate status changes and issues. The program also provides victims with crises intervention and referral information. The victim service program works closely with the Parole Board and the Pardon Advisory Board and also serves to educate law enforcement, prosecutors, the judiciary, and the public on victims' rights, needs, and issues. The other custodial authorities in the state--the jails and regional corrections facilities--are responsible for providing information to victims and witnesses regarding an offender's release from custody.

2007 House Bill No. 1219

House Bill No. 1219, as introduced, would have directed the Information Technology Department to establish the statewide automated victim information and notification system. The bill also directed the Department of Corrections and Rehabilitation to ensure that an offender's information contained in the statewide automated victim information and notification system was updated to notify timely a victim regarding an offender's status. The bill also directed other custodial authorities to cooperate with the Department of Corrections and Rehabilitation in establishing and maintaining the statewide automated victim information and notification system. The fiscal note for the introduced bill included a 2007-09 general fund fiscal effect of \$3.33 million and a 2009-11 fiscal effect of \$986,518.

The bill, as amended by the House, changed the language to permit the establishment of the system rather than mandate its establishment. The amendments also changed the responsibility for the establishment of the system from the Information Technology Department to the Criminal Justice Information Sharing Board. In addition, the amendments provided for a study of a statewide automated victim information and notification system. The amendments adopted by the Senate returned the Information Technology Department as the agency with the authority to establish the system. The Senate amendments also granted the Department of Corrections and Rehabilitation authority to administer the system. As passed, the language of Section 1 of the bill, which has been codified as NDCC Section 12.1-34-06, provides:

Statewide automated victim information and notification system.

1. The information technology department may establish a statewide automated victim information and notification system that may be administered by the department of corrections and rehabilitation and must:
 - a. Permit a victim to register or update the victim's registration information for the system by calling a toll-free telephone number or accessing a public web site.
 - b. Notify a registered victim by telephone, mail, or e-mail when any of the following events affect an offender under the supervision or in the custody of the department of corrections and rehabilitation or other correctional facility in the state:
 - (1) The offender is transferred or assigned to another facility.
 - (2) The offender is transferred to the custody of another agency outside the state.
 - (3) The offender is given a different security classification.
 - (4) The offender is released on temporary leave or otherwise.
 - (5) The offender is discharged.
 - (6) The offender has escaped.
 - (7) The offender has been served with a protective order that was requested by the victim.
 - c. Notify a registered victim by telephone, mail, or e-mail when the offender has a scheduled court proceeding at which the victim is entitled to be present, a scheduled parole or pardon hearing, or a change in the status of the offender's parole or probation status, including a change in the offender's address.
 - d. Notify a registered victim by telephone, mail, or e-mail when a registered sexual offender has updated the offender's registration information or failed to comply with any registration requirement.
 - e. Permit a victim to receive a status report for an offender under the supervision or in the custody of the department of corrections and rehabilitation or other correctional facility or for a registered sexual offender by calling the system on a toll-free telephone number or by accessing the system through a public web site.
2. If a statewide automated victim information and notification system is established, the provision of offender and case data on a timely basis to the automated victim information and notification system satisfies any obligation under this chapter to notify a registered victim of an offender's custody and the status of the offender's scheduled court proceedings.
 3. If a statewide automated victim information and notification system is established, the system operator shall ensure that an offender's information contained in the system is updated to timely notify a victim that an offender has been released or discharged or has escaped. The failure of the system to provide notice to the victim does not establish a cause of action by the victim against the state or any custodial authority.
 4. Custodial authorities shall cooperate with the system operator in establishing and maintaining the statewide automated victim information and notification system.

STATUS OF STATEWIDE AUTOMATED SYSTEMS IN OTHER STATES

According to a report of the National Conference of State Legislatures (NCSL), as of November 2006, 23 states had established statewide automated victim information notification (SAVIN) systems. According to the report, in 2004 the North Carolina Criminal Justice Analysis Center evaluated its SAVIN system. The results indicated that criminal justice agencies benefited from timesavings and improved community relations. Sixty percent of the agency officials who responded to the survey indicated that benefits exceeded the costs of the system. The report indicated that the North Carolina system, however, did suffer some shortcomings, which included a lack of

public awareness, technical problems, and gaps in available information. Other resistance to the SAVIN systems included cost concerns, the fact that some counties already have existing systems, and that rural communities do not have the capacity to enter data in a timely manner.

The NCSL report indicated that SAVIN systems require coordination, collaboration, and leadership at all levels of state government as well as money at the state and local level. The report noted that startup costs vary, but generally they require about \$100,000 in infrastructure plus about \$8,000 per agency connecting to the network. Recurring costs range from under \$100,000 in a small state to as much as \$3 million in a state like Texas. The average SAVIN program costs roughly \$500,000 per year to operate.

In October 2004 President Bush signed the Justice for All Act--42 U.S.C. 13701--which provided about \$8 million in fiscal year 2005 and \$9 million in fiscal year 2006 to help states starting or expanding state-of-the-art crime notification systems. As of November 2006, 16 states had received federal SAVIN funding. In 2005 the Bureau of Justice Assistance selected the IJIS Institute, a not-for-profit company based in Ashburn, Virginia, to develop guidelines and standards for states that apply for SAVIN funding. States receiving grants under this program must use the standards and guidelines as part of their planning. The Bureau of Justice Assistance also has compiled a clearinghouse of

information related to SAVIN programs to assist states in establishing or expanding programs.

In December 2006 the Information Technology Department submitted a grant application for a SAVIN grant for the implementation of a statewide automated victim information and notification system in North Dakota.

SUGGESTED STUDY APPROACH

The committee, in its study of the feasibility and desirability of establishing a statewide automated victim notification system, may wish to approach this study as follows:

- Receive information and testimony from the Information Technology Department regarding the status of the SAVIN grant application;
- Receive information and testimony from the Information Technology Department, the Department of Corrections and Rehabilitation, law enforcement, state's attorneys, and victim advocacy organizations regarding the issues to be addressed in establishing and maintaining a statewide automated victim notification system; and
- Develop recommendations and prepare legislation necessary to implement the recommendations.

ATTACH:1