

Sixty-first  
Legislative Assembly  
of North Dakota

Introduced by

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 50-06, relating to allowing the  
2 department of human services to require criminal history record checks in certain  
3 circumstances; and to amend and reenact subsection 2 of section 12-60-24 of the North Dakota  
4 Century Code, relating to criminal history record checks conducted by the bureau of criminal  
5 investigations.

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

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 12-60-24 of the North Dakota  
8 Century Code is amended and reenacted as follows:

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

- 14 a. The governing body of a city or a county, by ordinance or resolution, for a final  
15 applicant for a specified occupation with the city or county.
- 16 b. The agriculture commissioner for each applicant for a license to grow or  
17 process industrial hemp under section 4-41-02.
- 18 c. The education standards and practices board for initial, reentry, and reciprocal  
19 teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school  
20 guidance and counseling services under section 15.1-13-23.
- 21 d. The medical examiners board for licenses or disciplinary investigations under  
22 section 43-17-07.1, except that criminal history record checks need not be  
23 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 for foster care licenses under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those 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 for carecheck registrations under section 50-11.1-06.2 and investigations conducted pursuant to section 2 of this Act.
- h. The chief information officer of the information technology department for certain individuals under section 54-59-20.
- i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history background check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.
- j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.

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

- 1           v.    A city, county, or combination of cities or counties that operates a correctional  
2               facility subject to chapter 12-44.1, for each agent and employee and a final  
3               applicant for employment of the correctional facility who has direct contact  
4               with or exercises direct authority over any juvenile or inmate of the  
5               correctional facility, and for each agent, employee, or a final applicant for  
6               employment of a privately operated entity providing contract correctional  
7               services for the correctional facility who exercises direct authority over  
8               juveniles, inmates, probationers, or parolees.
- 9           w.    The North Dakota university system for a final applicant for or employee in a  
10               specified position in the university system or a university system institution or  
11               for each student applying for or admitted to a specified program of study, as  
12               designated by the chancellor.
- 13          x.    The governing board of a public school or, for a nonpublic school, the  
14               superintendent of public instruction, for employees designated by the  
15               governing board or nonpublic school. The governing board or the nonpublic  
16               school is responsible for paying the costs associated with obtaining a  
17               background check.
- 18          y.    The governing board of a public school or, for a nonpublic school, the  
19               superintendent of public instruction, for a final applicant seeking employment  
20               with the school or otherwise providing services to the school, if that individual  
21               has unsupervised contact with the students. For purposes of this subdivision,  
22               "unsupervised contact" with students means being in proximity to one or more  
23               students, on school grounds or at school functions, outside the presence of an  
24               individual who has been subject to a criminal background check. The  
25               governing board or the nonpublic school is responsible for paying the costs  
26               associated with obtaining a background check.
- 27          z.    The racing commission for applicants for licenses under chapter 53-06.2,  
28               except that criminal history record checks need not be made unless required  
29               by the commission.
- 30          aa.   A district court for a petition to change a name under chapter 32-28.

- 1           bb.    The state board of pharmacy for a wholesale drug distributor seeking  
2                    licensure under chapter 43-15.3.
- 3           cc.    The board of dental examiners for investigations of applicants or dentists  
4                    under section 43-28-11.2, except that criminal history record checks need not  
5                    be made unless required by the board.
- 6           dd.    The department of financial institutions for each applicant for a specified  
7                    occupation with the department as specified by the commissioner and  
8                    principal owners and managing officers of applicants for a license from the  
9                    department of financial institutions.

10           **SECTION 2.** A new section to chapter 50-06 of the North Dakota Century Code is  
11 created and enacted as follows:

12           **Criminal history record investigation for licensees, employees, and others - Fees -**  
13 **Rules.**

- 14           1.    The department may require criminal history record investigations as the  
15                   department determines appropriate for:
- 16               a.   Employees of the department upon hiring;  
17               b.   Vendors or grantees and their employees under contract or agreement with  
18                   the department who are responsible for providing services that are financed in  
19                   whole or in part with funds allocated or distributed by the department;  
20               c.   County social service board employees responsible for providing services  
21                   under programs supervised by the department and administered by the  
22                   county;  
23               d.   Providers licensed by the department under chapters 25-03.2, 25-16, 50-12,  
24                   and 50-31-02, as well as for any employees of those providers;  
25               e.   Licensed providers of early childhood services, nonlicensed holders of a self  
26                   declaration, and nonlicensed registered providers, under chapter 50-11.1.  
27                   The department also may require criminal history record checks for staff  
28                   members of those providers, or for adult household members of the provider if  
29                   the provider is providing early childhood services within the provider's home  
30                   and the adult household member resides within that home

- 1            f. Licenses issued under chapter 50-11, for appointments of legal guardians  
2            under chapter 50-11.3, and for petitions for adoptions under chapter 50-12.
- 3            2. Upon receipt of all fingerprints and necessary information relating to a criminal  
4            history record investigation, the department of human services shall submit those  
5            fingerprints and that information to the bureau of criminal investigation.
- 6            3. The bureau of criminal investigation shall request a nationwide background check  
7            from the federal bureau of investigation and, upon receipt of a response, provide  
8            the response of the federal bureau of investigation to the department of human  
9            services. The bureau of criminal investigation also shall provide any criminal  
10           history record information that may lawfully be made available under chapter  
11           12-60 to the department of human services. Unless otherwise provided within title  
12           50, the bureau of criminal investigation may charge a reasonable fee to offset the  
13           cost of providing any criminal history record information and may require payment  
14           of any charge imposed by the federal bureau of criminal investigation for a  
15           nationwide background check.
- 16           4. The department may adopt rules to identify how the results of an investigation  
17           completed under this section will impact a licensee, employee, or other individual.