

Sixty-sixth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1371**

Introduced by

Representatives C. Johnson, Adams, M. Johnson

Senators O. Larsen, Luick

1 A BILL ~~for an Act to amend and reenact sections 34-15-01 and 34-15-03, subsection 3 of~~  
2 ~~section 34-15-04, and subsection 3 of section 34-15-05 of the North Dakota Century Code,~~  
3 ~~relating to the new hire registry for child support; to provide a penalty; and to provide an~~  
4 ~~effective date; for an Act to create and enact a new section to chapter 34-15 of the North Dakota~~  
5 ~~Century Code, relating to new hire reporting of independent contractors; and to provide an~~  
6 ~~effective date.~~

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

8 ~~— **SECTION 1. AMENDMENT.** Section 34-15-01 of the North Dakota Century Code is~~  
9 ~~amended and reenacted as follows:~~

10 ~~— **34-15-01. Definitions.**~~

11 ~~— As used in this chapter:~~

12 ~~— 1. "Contractor" means an individual hired to provide services for or on behalf of an~~  
13 ~~employer in the course of the employer's trade or business, if the aggregate payment~~  
14 ~~for the services is sufficient for the employer to be required to file an internal revenue~~  
15 ~~service form 1099-MISC or substantially equivalent form and report the payment on~~  
16 ~~the form as nonemployee compensation.~~

17 ~~— 2. "Date of hire" means the date services for remuneration were first performed by the~~  
18 ~~employee or contractor.~~

19 ~~— 2.3. "Department" means the department of human services.~~

20 ~~— 3.4. "Employee" means an individual who would be determined to be an employee under~~  
21 ~~chapter 24 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401~~  
22 ~~et seq.], but does not include an employee of a federal or state agency performing~~  
23 ~~intelligence or counterintelligence functions, if the head of the agency has determined~~  
24 ~~that reporting under this chapter, with respect to that employee, could endanger the~~

1           safety of the employee or compromise an ongoing investigation or intelligence-  
2           mission.

3     ~~4.5.~~ "Employee newly hired" means an employee whoor contractor that has not previously  
4           been employed or hired by the employer or was previously employed or hired by that  
5           employer but has been separated from such prior employmentarrangement for at least  
6           sixty consecutive days.

7     ~~5.6.~~ "Employer" means an entity or individual who:

8     ~~a.~~ A person that would be determined to be an employer under section 3401(d) of  
9           the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401(d)], and  
10          includes any governmental entity and any labor organization;or

11    ~~b.~~ A person that hires a contractor.

12    ~~6.7.~~ "Labor organization" means an organization treated as a labor organization under  
13          section 2(5) of the National Labor Relations Act, as amended [29 U.S.C. 152(5)], and  
14          includes any entity, including a "hiring hall", which is used by the organization and an  
15          employer to carry out requirements, described in section 8(f)(3) of the National Labor  
16          Relations Act, as amended [29 U.S.C. 158(f)(3)], of an agreement between the  
17          organization and the employer.

18    ~~SECTION 2. AMENDMENT.~~ Section 34-15-03 of the North Dakota Century Code is  
19    amended and reenacted as follows:

20    ~~34-15-03. Employer reporting.~~

21    ~~1.~~ Except as provided in subsections 2 and 3, each employer shall furnish to the  
22          directory of new hires a report that contains the name, address, and social security  
23          number of each employee or contractor newly hired for work within this state, the date  
24          of hire, whether the employer offers health insurance to the employee or contractor,  
25          and the employer's name and address and the identifying number assigned under  
26          section 6109 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 6109], to  
27          the employer.

28    ~~2.~~ An employer whothat has employees whoor contractors that are employed or hired in  
29          two or more states, and whowhich transmits reports magnetically or electronically, may  
30          designate one state in which the employer has employees or contractors and may  
31          transmit a report conforming to subsection 1 to that state. An employer whothat reports

1           pursuant to this subsection must~~shall~~ notify the secretary of the United States-  
2           department of health and human services, in writing, of the state so designated.  
3     ~~3. Any department, agency, or instrumentality of the United States shall transmit a report,~~  
4           conforming to subsection 1, to the national directory of new hires established pursuant  
5           to section 453 of the Social Security Act [42 U.S.C. 653].  
6     ~~4. a. Except as provided in subdivision b, a report required under this section must be~~  
7           made no later than twenty days after the date the employer hires the employee or  
8           contractor.  
9     ~~b. If the employer transmits reports magnetically or electronically, a report required~~  
10           under this section may be made by two monthly transmissions, if necessary, not  
11           less than twelve nor more than sixteen days apart.  
12     ~~5. An employer is not required to report a contractor under this section if the services are~~  
13           provided in response to an emergency or if the services are not expected to be  
14           provided on a recurring basis.  
15     ~~**SECTION 3. AMENDMENT.** Subsection 3 of section 34-15-04 of the North Dakota Century~~  
16     Code is amended and reenacted as follows:  
17     ~~3. An employer that employs or hires more than twenty-four employees or contractors at~~  
18           any time must~~shall~~ report new hires through an electronic method provided by the  
19           department. An employer that does not comply with this subsection is deemed to have  
20           failed to report new hires under section 34-15-05. The department may waive, upon a  
21           showing of good cause, the requirement to report new hires electronically.  
22     ~~**SECTION 4. AMENDMENT.** Subsection 3 of section 34-15-05 of the North Dakota Century~~  
23     Code is amended and reenacted as follows:  
24     ~~3. An employer who~~that~~, by agreement between the employer and employee or between~~  
25           the employer and contractor, fails to file a timely, complete, and correct report required  
26           under this chapter or files a false or incomplete report is liable for a civil money penalty  
27           of two hundred fifty dollars for each failure to report or each false or incomplete report.  
28     ~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on January 1, 2020.~~  
29     **SECTION 1.** A new section to chapter 34-15 of the North Dakota Century Code is created  
30     and enacted as follows:

1     **Reporting of independent contractors.**

2     The provisions of this chapter apply to an independent contractor if the aggregate payment  
3 for the services performed by the independent contractor is sufficient for the payor to be  
4 required to file an internal revenue service form 1099 or substantially equivalent form and report  
5 the payment on the form as nonemployee compensation.

6     **SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2020.