

Fifty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2041

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to provide for a criminal justice information sharing board; to create and enact  
2 a new section to chapter 12-60 of the North Dakota Century Code, relating to federal criminal  
3 history checks; and to amend and reenact sections 12-60-16.2, 12-60-16.9, 12-60-18, and  
4 62.1-04-03 of the North Dakota Century Code, relating to the collection of criminal information  
5 and to the fees for criminal history checks and concealed weapons permits.

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

7 **SECTION 1. Criminal justice information sharing board - Membership - Duties**  
8 **and powers.** The criminal justice information sharing board consists of the chief justice of the  
9 supreme court or the chief justice's designee, the attorney general or the attorney general's  
10 designee, and the chief information officer of the state. The chief information officer is  
11 chairman of the board. The information technology department shall provide staff support to  
12 the board. The board shall set policy relating to the collection, storage, and sharing of criminal  
13 justice information and the systems necessary to perform those functions. The board shall  
14 provide operational oversight for criminal justice information sharing activities and shall approve  
15 and provide oversight of criminal justice information sharing budgets. The board may appoint  
16 an executive committee and an advisory committee that would serve in an advisory capacity to  
17 the board.

18 **SECTION 2. AMENDMENT.** Section 12-60-16.2 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **12-60-16.2. Criminal history record information - Reportable events.** Except as  
21 otherwise provided in sections 12-60-16.1 through 12-60-16.10, each criminal justice agency  
22 shall report to the bureau the information described in this section for each felony and  
23 reportable offense so designated pursuant to section 12-60-16.4. The bureau may require the  
24 criminal justice agency to provide the information in a manner that the bureau determines to be

1 the most efficient or accurate means of collection. The following criminal justice agencies shall  
2 perform the duties indicated:

- 3       1. Except as otherwise provided in this subsection, each criminal justice agency that  
4       makes an arrest for a reportable offense shall, with respect to that offense and the  
5       person arrested, furnish to the bureau the fingerprints, charges, and descriptions of  
6       the person arrested. If the arrest is made by a criminal justice agency that is a  
7       state law enforcement agency, then, on request of the arresting agency, a sheriff  
8       or jail administrator shall take the fingerprints. The arresting agency shall then  
9       furnish the required information to the bureau. If a decision is made not to refer  
10      the arrest for prosecution, the criminal justice agency making that decision shall  
11      report the decision to the bureau. A criminal justice agency may make agreements  
12      with other criminal justice agencies for the purpose of furnishing to the bureau  
13      information required under this subsection.
- 14      2. The prosecuting attorney shall notify the bureau of all charges filed, including all  
15      those added after the filing of a criminal court case, and whether charges were not  
16      filed in criminal cases for which the bureau has a record of an arrest.
- 17      3. After the court pronounces sentence for a reportable offense, and if the person  
18      being sentenced has not been fingerprinted with respect to that case, the  
19      prosecuting attorney shall ask the court to order a law enforcement agency to  
20      fingerprint that person. If the court determines that the person being so sentenced  
21      has not previously been fingerprinted for the same case, the court shall order the  
22      fingerprints taken. The law enforcement agency shall forward the fingerprints to  
23      the bureau.
- 24      4. The prosecuting attorney having jurisdiction over a reportable offense shall furnish  
25      the bureau all final dispositions of criminal cases for which the bureau has a record  
26      of an arrest or a record of fingerprints reported under subsection 3. For each  
27      charge, this information must include at least the following:
  - 28      a. Judgments of not guilty, judgments of guilty including the sentence  
29      pronounced by the court, discharges, and dismissals in the trial court;
  - 30      b. Reviewing court orders filed with the clerk of the court which reverse or  
31      remand a reported conviction or which vacate or modify a sentence; and

- 1           c.    Judgments terminating or revoking a sentence to probation and any  
2                    resentencing after such a revocation.
- 3           5.    The North Dakota state penitentiary, pardon clerk, parole board, and local  
4                    correctional facility administrators shall furnish the bureau with all information  
5                    concerning the receipt, escape, death, release, pardon, conditional pardon,  
6                    reprieve, parole, commutation of sentence, or discharge of an individual who has  
7                    been sentenced to that agency's custody for any reportable offense which is  
8                    required to be collected, maintained, or disseminated by the bureau. In the case of  
9                    an escape from custody or death while in custody, information concerning the  
10                  receipt and escape or death must also be furnished.

11           **SECTION 3. AMENDMENT.** Section 12-60-16.9 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **12-60-16.9. Criminal history record information - Fee for record check.** The  
14 bureau shall impose a fee of ~~twenty~~ twenty-five dollars for each record check. The bureau shall  
15 waive the fee for any criminal justice agency or court, and shall impose a fee of three dollars for  
16 each record check for a nonprofit organization that is organized and operated in this state  
17 exclusively for charitable purposes for the exclusive benefit of minors. Eighty percent of all fees  
18 collected under this section must be deposited in the criminal justice information sharing fund.  
19 The funds deposited into the criminal justice information sharing fund are available to the  
20 information technology department, subject to legislative appropriation, for the purpose of  
21 funding criminal justice information sharing activities. The remaining twenty percent of the fees  
22 collected under this section must be credited to the attorney general's operating fund.

23           **SECTION 4.** A new section to chapter 12-60 of the North Dakota Century Code is  
24 created and enacted as follows:

25           **Federal criminal history checks.** The bureau may file for federal processing with the  
26 federal bureau of investigation a criminal history check requested by a nonprofit organization  
27 engaged in activities involving direct contact with minors by the organization's employees,  
28 agents, or volunteers. The nonprofit organization shall pay all costs associated with the  
29 criminal history check filed with the federal bureau of investigation.

30           **SECTION 5. AMENDMENT.** Section 12-60-18 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **12-60-18. Money collected ~~paid into~~ deposited in general fund - Exception. All**  
2 Except as provided in section 12-60-16.9, all moneys collected or received, including all  
3 rewards for the apprehension or conviction of any criminal earned or collected by the  
4 superintendent, ~~the chief of the bureau, his assistants,~~ or any employee of ~~his office~~ the  
5 bureau, ~~shall be paid into~~ must be deposited in the general fund of the state.

6           **SECTION 6. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **62.1-04-03. License to carry a firearm or dangerous weapon concealed.**

- 9           1. The chief of the bureau of criminal investigation shall issue a license to carry a  
10 firearm or dangerous weapon concealed upon review of an application submitted  
11 to the chief if the following criteria are met:
- 12           a. The applicant has a valid reason for carrying the firearm or dangerous  
13            weapon concealed, including self-protection, protection of others, or  
14            work-related needs.
  - 15           b. The applicant is not a person specified in section 62.1-02-01.
  - 16           c. The applicant has the written approval for the issuance of such a license from  
17            the sheriff of the applicant's county of residence, and, if the city has one, the  
18            chief of police or a designee of the city in which the applicant resides. The  
19            approval by the sheriff may not be given until the applicant has successfully  
20            completed a background investigation in that county and has attended a  
21            testing procedure conducted pursuant to rules adopted by the attorney  
22            general. The testing procedure for approval of a concealed weapons license  
23            must include an open book test to be given from a manual that sets forth  
24            weapon safety rules and the deadly force law of North Dakota, including  
25            judicial decisions and attorney general opinions, and a proficiency test  
26            consisting of a course of fire to be designated by the criminal justice training  
27            and statistics division of the attorney general's office. The purpose of the  
28            proficiency test is only to ensure a minimal level of competency in the loading  
29            and unloading of the firearm or dangerous weapon, use of safety devices and  
30            basic firearm or dangerous weapon functioning, and minimal accuracy. A  
31            weapons instructor certified by the attorney general shall conduct the testing

- 1 procedure. The attorney general shall develop rules that ensure that this  
2 testing will be conducted periodically. The local agency conducting the  
3 testing may assess a charge of up to fifty dollars for conducting this testing.  
4 The testing procedure is not required for a renewal of a concealed weapons  
5 license.
- 6 d. The applicant satisfactorily completes the bureau of criminal investigation  
7 application form and has successfully passed a background investigation or  
8 criminal records check conducted by that agency.
- 9 e. The applicant is not prohibited under federal law from owning, possessing, or  
10 having a firearm under that person's control.
- 11 2. The sheriff is required to process the application within thirty days after the  
12 completion of the testing portion unless the application is for renewal of a license  
13 and in such case the application must be processed within thirty days after its  
14 receipt by the sheriff, the chief of police is required to process the application  
15 within ten working days of its receipt by the agency, and the bureau of criminal  
16 investigation is required to process the application and make a determination  
17 within thirty days of receipt from the forwarding agency.
- 18 3. The license fee for a concealed weapons license is twenty-five dollars. Ten dollars  
19 of this fee must be ~~credited to the state general fund and~~ deposited in the criminal  
20 justice information sharing fund. The funds deposited into the criminal justice  
21 information sharing fund are available to the information technology department,  
22 subject to legislative appropriation, for the purpose of funding criminal justice  
23 information sharing activities. The remaining fifteen dollars of this fee must be  
24 credited to the attorney general's operating fund up to a total of seventy-five  
25 thousand dollars each biennium. Any collections from fifteen dollars of this fee in  
26 excess of the seventy-five thousand dollars credited to the attorney general's  
27 operating fund each biennium must be credited to the state general fund. The  
28 license fee must be paid before the license is issued by the director of the bureau  
29 of criminal investigation.
- 30 4. The chief of the bureau of criminal investigation shall prescribe the form of the  
31 application and license, which must include the name, address, description, a

- 1 photograph, and the signature of the individual. The application form must require  
2 sufficient information to properly conduct a background investigation and be  
3 accompanied by two sets of classifiable fingerprints. The two sets of classifiable  
4 fingerprints are not required for a renewal of a concealed weapons license. The  
5 license is valid for three years. The license must be prepared in triplicate, and the  
6 original must be delivered to the licensee, the duplicate must be sent by mail,  
7 within seven days after issuance, to the sheriff of the county in which the applicant  
8 resides, and the triplicate must be preserved for six years by the chief. In those  
9 cases in which the licensee resides in a city, an additional copy of the license must  
10 be made and sent by mail, within seven days after issuance, to the chief of police  
11 of the city in which the applicant resides. The individual shall notify the chief of the  
12 bureau of criminal investigation of any change of address or any other material fact  
13 which would affect the restrictions on or the need for the license.
- 14 5. The chief of the bureau of criminal investigation may deny an application or revoke  
15 or cancel such a license after it has been granted for any material misstatement by  
16 an applicant in an application for the license or any violation of this title.
- 17 6. The applicant may appeal a denial or revocation of this license to the district court  
18 of the applicant's county of residence.
- 19 7. The attorney general may adopt rules to carry out this title.