

**SECOND ENGROSSMENT
with House Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

REENGROSSED 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; to amend and reenact sections 12-60-16.2, 12-60-16.9, and 12-60-18 of the
4 North Dakota Century Code, relating to the collection of criminal information and fees for
5 criminal history record checks; and to provide for a continuing appropriation.

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 -**
14 **Continuing appropriation.** The bureau shall impose a fee of ~~twenty~~ twenty-five dollars for
15 each record check. The bureau shall waive the fee for any criminal justice agency or court, and
16 shall impose a fee of three dollars for each record check for a nonprofit organization that is
17 organized and operated in this state exclusively for charitable purposes for the exclusive benefit
18 of minors. Five dollars of the fee for each record check must be deposited in the criminal justice
19 information sharing fund. The funds deposited into the criminal justice information sharing fund
20 are appropriated to the information technology department on a continuing basis for the
21 purpose of funding the criminal justice information sharing activities authorized by the criminal
22 justice information sharing board under section 1 of this Act.

23 **SECTION 4. AMENDMENT.** Section 12-60-18 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **12-60-18. Money collected paid into general fund.** ~~All~~ Except as provided in section
26 12-60-16.9, all moneys collected or received, including all rewards for the apprehension or
27 conviction of any criminal earned or collected by the superintendent, the chief of the bureau, his
28 assistants, or any employee of his office, shall be paid into the general fund of the state.

29 **SECTION 5.** A new section to chapter 12-60 of the North Dakota Century Code is
30 created and enacted as follows:

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