

SENATE BILL NO. 2248

Introduced by

Senators Christmann, Andrist, Lindaas

Representatives Haas, L. Meier, Skarphol

1 A BILL for an Act to amend and reenact subsection 1 of section 4-41-02, sections 12-60-16.6,
2 12-60-16.9, 12-60-24, and 15.1-13-14, subsection 1 of section 15.1-13-20, section 15.1-13-23,
3 subsection 4 of section 43-17-07.1, and sections 43-30-06, 50-11.1-06.2, and 54-59-20 of the
4 North Dakota Century Code, relating to criminal history record checks.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 4-41-02 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. Any person desiring to grow industrial hemp for commercial purposes shall apply to
9 the agriculture commissioner for a license on a form prescribed by the
10 commissioner. The application for a license must include the name and address of
11 the applicant and the legal description of the land area to be used ~~for the~~
12 ~~production of~~ to produce industrial hemp. Except for employees of the agricultural
13 experiment station or the North Dakota state university extension service involved
14 in research and extension related activities, the commissioner shall require each
15 applicant for initial licensure to ~~file a set of the applicant's fingerprints, taken by a~~
16 ~~law enforcement officer, and any other information necessary to complete~~ submit
17 to a statewide and nationwide criminal history check with the bureau of criminal
18 ~~investigation for state processing and with the federal bureau of investigation for~~
19 ~~federal processing.~~ The nationwide criminal history check must be conducted in
20 the manner provided in section 12-60-24. All costs associated with the background
21 check are the responsibility of the applicant. Criminal history records provided to
22 the commissioner under this section are confidential. The commissioner may use
23 the records only in determining an applicant's eligibility for licensure. Any person
24 with a prior criminal conviction is not eligible for licensure. If the applicant has

1 completed the application process to the satisfaction of the commissioner, the
2 commissioner shall issue the license, which is valid for a period of one year. Any
3 person licensed under this section is presumed to be growing industrial hemp for
4 commercial purposes.

5 **SECTION 2. AMENDMENT.** Section 12-60-16.6 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **12-60-16.6. Criminal history record information - Dissemination to parties not**
8 **described in section 12-60-16.5.** Only the bureau may disseminate criminal history record
9 information to parties not described in section 12-60-16.5. The dissemination may be made
10 only if all the following requirements are met:

- 11 1. The information has not been purged or sealed.
- 12 2. The information is of a conviction, including a conviction for violating section
13 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-06.1, or 12.1-20-11 notwithstanding
14 any disposition following a deferred imposition of sentence; or the information is of
15 a reportable event occurring within one year preceding the request.
- 16 3. The request is written and contains:
 - 17 a. The name of the requester.
 - 18 b. The name of the record subject.
 - 19 c. At least two items of information used by the bureau to retrieve criminal
20 history records, including:
 - 21 (1) The fingerprints of the record subject.
 - 22 (2) The state identification number assigned to the record subject by the
23 bureau.
 - 24 (3) The social security number of the record subject.
 - 25 (4) The date of birth of the record subject.
 - 26 (5) A specific reportable event identified by date and either agency or court.
- 27 4. The identifying information supporting a request for a criminal history record does
28 not match the record of more than one individual.

29 In order to confirm a record match, the bureau may contact the requester to collect additional
30 information if a request contains an item of information that appears to be inaccurate or
31 incomplete.

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

3 **12-60-16.9. Criminal history record information - Fee for record check.** The
4 bureau shall impose a fee of ~~thirty~~ fifteen dollars for each state record check. The bureau shall
5 ~~waive the fee for any criminal justice agency or court, and shall~~ impose a fee of ~~three~~ five
6 dollars for each record check for a nonprofit organization that is organized and operated in this
7 state exclusively for charitable purposes for the exclusive benefit of minors. The bureau shall
8 impose a fee of fifteen dollars for processing fingerprints necessary for each nationwide criminal
9 history record check. The bureau shall waive the fees for any criminal justice agency or court.

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

12 **12-60-24. ~~City or county fingerprinting~~- Criminal history record checks.** The
13 ~~governing body of a city by ordinance or a county by ordinance or resolution may require each~~
14 ~~applicant for a specified occupation with the city or county to provide two sets of fingerprints.~~

15 1. a. The agencies and entities named in subsection 2 shall require each applicant,
16 employee, or petitioner for adoption to consent to a statewide and nationwide
17 criminal history record check for the purpose of determining suitability or
18 fitness for a permit, license, employment, or adoption.

19 b. Each applicant or employee subject to a criminal history check shall provide to
20 the requesting agency or entity written consent to conduct the check, two sets
21 of fingerprints from a law enforcement agency or other local agency
22 authorized to take fingerprints, any other identifying information requested,
23 and a statement indicating whether the applicant or employee has ever been
24 convicted of a crime.

25 c. The ~~city or county~~ may agency or entity shall submit these fingerprints to the
26 bureau of criminal investigation for nationwide criminal history record
27 information that includes resubmission of the fingerprints by the bureau of
28 criminal investigation to the federal bureau of investigation. ~~Federal~~ Except if
29 otherwise provided by law, federal bureau of investigation criminal history
30 record information obtained by a ~~city or county~~ an agency or entity is
31 confidential. For a request for nationwide criminal history record information

1 made ~~by the city or county~~ under this section, the bureau of criminal
2 investigation is the sole source to receive the fingerprint submissions and
3 responses from the federal bureau of investigation. A person who takes
4 fingerprints under this section may charge a reasonable fee to offset the cost
5 of fingerprinting. ~~The~~ Unless otherwise provided by law, the bureau of
6 criminal investigation may charge appropriate fees for criminal history
7 information.

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

- 13 a. The governing body of a city or a county, by ordinance or resolution, for each
14 applicant for a specified occupation with the city or county.
- 15 b. The agriculture commissioner for each applicant for a license to grow
16 industrial hemp under section 4-41-02.
- 17 c. The education standards and practices board for initial and reciprocal teacher
18 licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and
19 counseling services under section 15.1-13-23.
- 20 d. The medical examiners board for licenses or disciplinary investigations under
21 section 43-17-07.1, except that criminal history record checks need not be
22 made unless required by the board.
- 23 e. The private investigative and security board for licenses or registrations under
24 section 43-30-06.
- 25 f. The human services department for foster care licenses under section
26 50-11-06.8, appointments of legal guardians under section 50-11.3-01, and
27 petitions for adoptions under section 50-12-03.2, except that the criminal
28 history record investigation must be conducted in accordance with those
29 sections.
- 30 g. The human services department for carecheck registrations under section
31 50-11.1-06.2.

- 1 h. The chief information officer of the information technology department for
2 certain employees under section 54-59-20.
- 3 i. A public peace officer training school that has been approved by the peace
4 officer standards and training board for enrollees in the school. The school
5 may only disclose the criminal history record information as authorized by law.
6 The school shall pay the costs for securing the fingerprints, any criminal
7 history record information made available under this chapter, and for the
8 nationwide criminal history background check. This subdivision does not
9 apply to the highway patrol law enforcement training center and enrollees who
10 have a limited license under section 12-63-09.
- 11 j. The North Dakota public employees retirement board for individuals first
12 employed by the public employees retirement board after July 31, 2005, who
13 have unescorted physical access to the office or any security-sensitive area of
14 the office as designated by the executive director.
- 15 k. The executive director of the retirement and investment office for individuals
16 first employed by the retirement and investment office after July 31, 2005,
17 who have unescorted physical access to the office or any security-sensitive
18 area of the office as designated by the executive director.
- 19 l. The Bank of North Dakota for each applicant for a specified occupation with
20 the Bank as designated by the president.
- 21 m. Job service North Dakota for each applicant for a specified occupation with
22 job service as designated by the executive director.

23 **SECTION 5. AMENDMENT.** Section 15.1-13-14 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **15.1-13-14. Initial licensure of teachers - ~~Background~~ Criminal history record**
26 **check.** The board shall check, or cause to be checked, the ~~background~~ criminal history record
27 of each applicant for initial licensure as a teacher in accordance with section 12-60-24. ~~The~~
28 ~~board shall require each applicant for licensure to file a complete set of the applicant's~~
29 ~~fingerprints, taken by a law enforcement officer or a properly trained designee of a law~~
30 ~~enforcement officer, and all other information necessary to complete a statewide and~~
31 ~~nationwide criminal history check with the bureau of criminal investigation for state processing~~

1 ~~and filing with the federal bureau of investigation for federal processing.~~ All costs associated
2 with the background check and with obtaining and processing the fingerprints are the
3 responsibility of the applicant. Criminal history records provided to the board pursuant to this
4 section are confidential and closed to the public and may only be used by the board for
5 determining an applicant's eligibility for licensure and obtaining documentation to support a
6 denial of licensure.

7 **SECTION 6. AMENDMENT.** Subsection 1 of section 15.1-13-20 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. The board shall grant an interim reciprocal teaching license in accordance with
10 sections 15.1-18-02 and 15.1-18-03 to an individual who holds a regular teaching
11 license or certificate from another state, provided:
- 12 a. The individual's licensure or certification is based upon a minimum of a
13 bachelor's degree with a major that meets the issuing state's requirements in
14 elementary education, middle-level education, or a content area taught at a
15 public high school;
 - 16 b. The individual's licensure or certification is based upon the completion of a
17 professional education sequence from a state-approved teacher education
18 program and includes supervised student teaching;
 - 19 c. The individual submits to a ~~background~~ criminal history record check as
20 required of initial applicants by this chapter;
 - 21 d. The ~~background~~ criminal history record check reveals nothing for which a
22 North Dakota applicant would be denied initial licensure; and
 - 23 e. The individual submits a plan for meeting all requirements necessary to
24 become a licensed teacher in this state.

25 **SECTION 7. AMENDMENT.** Section 15.1-13-23 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **15.1-13-23. School guidance and counseling services - Providers.** Notwithstanding
28 any other law, guidance and counseling services at the elementary and secondary school level
29 may be provided by a person holding a graduate degree in counseling from a state-approved
30 school counseling program, with coursework and an internship in school counseling, as
31 required for all counselors by the superintendent of public instruction, provided the person has a

1 North Dakota teaching license or will obtain one within seven years from the date of first
2 employment under this section. The board shall ~~adopt rules relating to the background check~~
3 ~~of a~~ conduct a criminal history record check in accordance with section 12-60-24 on each
4 person hired under this section. All costs associated with a background check are the
5 responsibility of the person being hired. The board shall monitor a person hired under this
6 section to ensure that the person annually completes at least one-seventh of the total credits
7 required for that person to obtain a teaching license, as determined at the time of employment
8 under this section.

9 **SECTION 8. AMENDMENT.** Subsection 4 of section 43-17-07.1 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 4. Require information on an applicant's or licensee's fitness, qualifications, and
12 previous professional record and performance from recognized data sources,
13 including the federation of state medical boards action data bank, other data
14 repositories, licensing and disciplinary authorities of other jurisdictions, professional
15 education and training institutions, liability insurers, health care institutions, and law
16 enforcement agencies be reported to the board. The board or its investigative
17 panels may require an applicant for licensure or a licensee who is the subject of a
18 disciplinary investigation to ~~file a complete set of the applicant's or licensee's~~
19 ~~fingerprints taken by a law enforcement officer or a properly trained designee of a~~
20 ~~law enforcement officer and all other information necessary to complete~~ submit to
21 a statewide and nationwide criminal history record check ~~with the bureau of~~
22 ~~criminal investigation for state processing and filing with the federal bureau of~~
23 ~~investigation for federal processing.~~ The nationwide criminal history record check
24 must be conducted in the manner provided by section 12-60-24. All costs
25 associated with the ~~background~~ criminal history record check ~~and with obtaining~~
26 ~~and processing the fingerprints~~ are the responsibility of the licensee or applicant.

27 **SECTION 9. AMENDMENT.** Section 43-30-06 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **43-30-06. License and registration applications.** Every person who desires to obtain
30 a license or registration shall apply to the board on applications prepared and furnished by the
31 board. Each application must include the information required by the board and must be

1 accompanied by the required fee. As a requirement of receiving a license or registration, the
2 board shall require each applicant to ~~file with the board a complete set of the applicant's~~
3 ~~fingerprints and all other information necessary to complete~~ submit to a state and nationwide
4 ~~criminal history record check with the bureau of criminal investigation for state processing and~~
5 ~~filling with the federal bureau of investigation for federal processing.~~ The nationwide criminal
6 history check must be conducted in the manner provided in section 12-60-24. All costs
7 associated with the ~~background~~ criminal history record check ~~and with obtaining and~~
8 ~~processing the fingerprints~~ are the responsibility of the applicant. Criminal history records
9 provided to the board pursuant to this section are confidential and closed to the public and may
10 be used by the board for the sole purpose of determining an applicant's eligibility for licensure
11 and obtaining documentation to support a denial of licensure. A criminal history record check is
12 not required under this section if an applicant for registration has previously been the subject of
13 a state and nationwide criminal history check, has held a registration issued by the board within
14 the sixty days immediately preceding the application, and is applying for a new registration due
15 solely to a change in employment. A nationwide criminal history check is not required under
16 this section if an applicant for licensure or registration provides to the board the results of a
17 nationwide criminal history check performed by the federal bureau of investigation at the
18 request of another state and if the nationwide criminal history check was performed within the
19 sixty days immediately preceding the date of the application. A state criminal history check is
20 not required under this section if an applicant for registration provides to the board the results of
21 a state ~~background~~ criminal history record check performed by the state in which the applicant
22 currently resides and if the state ~~background~~ criminal history record check was performed
23 within the sixty days immediately preceding the date of the application.

24 **SECTION 10. AMENDMENT.** Section 50-11.1-06.2 of the North Dakota Century Code
25 is amended and reenacted as follows:

26 **50-11.1-06.2. Carecheck registry - Child care providers - Background**
27 **investigations - Fees.** Placement in the carecheck registry is voluntary. To apply for
28 placement in the carecheck registry, an in-home provider, a family child care home exempt from
29 licensure, or a licensed early childhood services provider shall obtain two sets of that person's
30 own fingerprints from a law enforcement agency or other local agency authorized to take
31 fingerprints and shall request the agency to submit the fingerprints and a completed fingerprint

1 card for each set to the division of children and family services of the department or to any
2 division as determined appropriate by the department. If the division has no record of a
3 determination of services required for child abuse or neglect, the division shall submit ~~one set of~~
4 the fingerprints to the ~~federal bureau of investigation and one set to the~~ bureau of criminal
5 investigation to determine if there is any criminal history record information regarding the
6 applicant for carecheck in accordance with section 12-60-24. The results of the investigations
7 must be forwarded to the division of children and family services of the department or to any
8 other division as determined appropriate by the department. The applicant for placement in the
9 carecheck registry, after satisfying requirements imposed by the department, must be placed in
10 the carecheck registry if no relevant criminal history record information is found and no report of
11 a determination of services required for child abuse or neglect filed pursuant to section
12 50-25.1-05.2 is found which would disqualify the person. The division may charge the applicant
13 a fee not to exceed thirty dollars for the purpose of processing the application. The division is
14 not subject to the fee imposed under section 12-60-16.9 when requesting criminal history
15 record information from the bureau of criminal investigation. The division, within one hundred
16 eighty days after July 1, 1991, shall provide, through a toll-free telephone line maintained by the
17 department, a means to allow interested parents or guardians, employment agencies, or child
18 care referral groups to determine if a person has met the requirements for placement in the
19 carecheck registry. The division shall undertake a public awareness effort to explain the
20 existence and purpose of the carecheck toll-free telephone line. An agency that takes
21 fingerprints as provided under this section may charge a reasonable fee to offset the costs of
22 the fingerprinting.

23 **SECTION 11. AMENDMENT.** Section 54-59-20 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-59-20. Employees of the department - Security background information.** The
26 chief information officer shall require as a condition of employment with the department that
27 individuals who have unescorted physical access to the facilities or other security sensitive
28 areas of the department designated by the chief information officer ~~be fingerprinted. The chief~~
29 ~~information officer shall ensure that the fingerprints are submitted to the bureau of criminal~~
30 ~~investigation and the federal bureau of investigation for verification of the identity of the~~

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- 1 ~~individuals and to obtain records of criminal arrests and convictions~~ submit to a criminal history
- 2 record check in accordance with section 12-60-24.