

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.

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

6 **SECTION 1. AMENDMENT.** Section 34-15-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **34-15-01. Definitions.**

9 As used in this chapter:

- 10 1. "Contractor" means an individual hired to provide services for or on behalf of an
11 employer in the course of the employer's trade or business, if the aggregate payment
12 for the services is sufficient for the employer to be required to file an internal revenue
13 service form 1099-MISC or substantially equivalent form and report the payment on
14 the form as nonemployee compensation.
- 15 2. "Date of hire" means the date services for remuneration were first performed by the
16 employee or contractor.
- 17 ~~2-3.~~ "Department" means the department of human services.
- 18 ~~3-4.~~ "Employee" means an individual who would be determined to be an employee under
19 chapter 24 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401
20 et seq.], but does not include an employee of a federal or state agency performing
21 intelligence or counterintelligence functions, if the head of the agency has determined
22 that reporting under this chapter, with respect to that employee, could endanger the
23 safety of the employee or compromise an ongoing investigation or intelligence
24 mission.

1 ~~4.5.~~ "Employee newly hired" means an employee ~~wh~~or contractor that has not previously
2 been employed or hired by the employer or was previously employed or hired by that
3 employer but has been separated from such prior ~~employment~~arrangement for at least
4 sixty consecutive days.

5 ~~5.6.~~ "Employer" means ~~an entity or individual who:~~

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

9 b. A person that hires a contractor.

10 ~~6.7.~~ "Labor organization" means an organization treated as a labor organization under
11 section 2(5) of the National Labor Relations Act, as amended [29 U.S.C. 152(5)], and
12 includes any entity, including a "hiring hall", which is used by the organization and an
13 employer to carry out requirements, described in section 8(f)(3) of the National Labor
14 Relations Act, as amended [29 U.S.C. 158(f)(3)], of an agreement between the
15 organization and the employer.

16 **SECTION 2. AMENDMENT.** Section 34-15-03 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **34-15-03. Employer reporting.**

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

26 2. An employer ~~wh~~ethat has employees ~~wh~~or contractors that are employed or hired in
27 two or more states, and ~~wh~~hich transmits reports magnetically or electronically, may
28 designate one state in which the employer has employees or contractors and may
29 transmit a report conforming to subsection 1 to that state. An employer ~~wh~~ethat
30 reports pursuant to this subsection ~~must~~shall notify the secretary of the United States
31 department of health and human services, in writing, of the state so designated.

1 3. Any department, agency, or instrumentality of the United States shall transmit a report,
2 conforming to subsection 1, to the national directory of new hires established pursuant
3 to section 453 of the Social Security Act [42 U.S.C. 653].

4 4. a. Except as provided in subdivision b, a report required under this section must be
5 made no later than twenty days after the date the employer hires the employee or
6 contractor.

7 b. If the employer transmits reports magnetically or electronically, a report required
8 under this section may be made by two monthly transmissions, if necessary, not
9 less than twelve nor more than sixteen days apart.

10 5. An employer is not required to report a contractor under this section if the services are
11 provided in response to an emergency or if the services are not expected to be
12 provided on a recurring basis.

13 **SECTION 3. AMENDMENT.** Subsection 3 of section 34-15-04 of the North Dakota Century
14 Code is amended and reenacted as follows:

15 3. An employer that employs or hires more than twenty-four employees or contractors at
16 any time ~~must~~shall report new hires through an electronic method provided by the
17 department. An employer that does not comply with this subsection is deemed to have
18 failed to report new hires under section 34-15-05. The department may waive, upon a
19 showing of good cause, the requirement to report new hires electronically.

20 **SECTION 4. AMENDMENT.** Subsection 3 of section 34-15-05 of the North Dakota Century
21 Code is amended and reenacted as follows:

22 3. An employer ~~who~~that, by agreement between the employer and employee or between
23 the employer and contractor, fails to file a timely, complete, and correct report required
24 under this chapter or files a false or incomplete report is liable for a civil money penalty
25 of two hundred fifty dollars for each failure to report or each false or incomplete report.

26 **SECTION 5. EFFECTIVE DATE.** This Act becomes effective on January 1, 2020.