



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
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BUREAU OF CRIMINAL INVESTIGATION
4205 STATE STREET, PO BOX 1054
BISMARCK, ND 58502-1054
(701) 328-5500 FAX (701) 328-5510
1-800-472-2185 (Toll Free)

SEP 15 2015

September 15, 2015

Mr. John Bjornson
Administrative Code Revisor
North Dakota Legislative Council
600 East Boulevard Avenue, 2nd Floor
Bismarck, ND 58505-0360

RE: Proposed Administrative Rules

Dear Mr. Bjornson:

The Notice of Intent to Amend Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

The rule making implements, in part, Senate Bill No. 2215. Enclosed are copies of letters to the sponsors of Senate Bill No. 2215, Senators Jonathan Casper, Carolyn Nelson, and Nicole Poolman, and Representatives Lois Delmore, Jason Dockter, and Karen Karls.

The rule-making also implements Section 9 of Senate Bill No. 2003, which is the appropriation bill for the Office of the Attorney General and does not have any individual sponsors.

Notice of the Intent to Amend Administrative Rules, and a copy of the proposed rules, have been mailed to the bill sponsors.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dallas L. Carlson".

Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures



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September 15, 2015

The Honorable Carolyn Nelson
State Senator
210 11th Street North #205
Fargo, ND 58102-4687

Dear Senator Nelson:

You were a co-sponsor of Senate Bill No. 2215 in the sixty-fourth session of the North Dakota Legislative Assembly. Senate Bill No. 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill No. 2215 amends N.D.C.C. § 12-60-16.1 relating to definitions and defines biometric data and amends N.D.C.C. § 12-60-16.2 relating to criminal history record information and reportable events to include biometric data. Senate Bill No. 2215 also amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. The amendments became effective August 1, 2015.

Section 28-32-10(2) of the North Dakota Century Code requires the POST Board to mail a copy of the POST Board's full notice and proposed rules to implement the legislation passed by the sixty-fourth Legislative Assembly relating to criminal history record information. Therefore, enclosed please find a Notice of Intent to Amend and Adopt Administrative Rules and a copy of the proposed rules, as required by N.D.C.C. § 28-32-10(2).

Sincerely,

A handwritten signature in black ink, appearing to read "Dallas L. Carlson".

Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures

cc: John Bjornson, Legislative Council



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September 15, 2015

The Honorable Nicole Poolman
State Senator
6517 Misty Waters Drive
Bismarck, ND 58503-9300

Dear Senator Poolman:

You were a co-sponsor of Senate Bill No. 2215 in the sixty-fourth session of the North Dakota Legislative Assembly. Senate Bill No. 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill No. 2215 amends N.D.C.C. § 12-60-16.1 relating to definitions and defines biometric data and amends N.D.C.C. § 12-60-16.2 relating to criminal history record information and reportable events to include biometric data. Senate Bill No. 2215 also amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. The amendments became effective August 1, 2015.

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Sincerely,


Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures
cc: John Bjornson, Legislative Council



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September 15, 2015

The Honorable Jonathan Casper
State Senator
PO Box 6457
Fargo, ND 58109-6457

Dear Senator Casper:

You were a co-sponsor of Senate Bill No. 2215 in the sixty-fourth session of the North Dakota Legislative Assembly. Senate Bill No. 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill No. 2215 amends N.D.C.C. § 12-60-16.1 relating to definitions and defines biometric data and amends N.D.C.C. § 12-60-16.2 relating to criminal history record information and reportable events to include biometric data. Senate Bill No. 2215 also amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. The amendments became effective August 1, 2015.

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Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures
cc: John Bjornson, Legislative Council



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September 15, 2015

The Honorable Jason Dockter
State Representative
4443 Turnbow Lane
Bismarck, ND 58503-5814

Dear Representative Dockter:

You were a co-sponsor of Senate Bill No. 2215 in the sixty-fourth session of the North Dakota Legislative Assembly. Senate Bill No. 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill No. 2215 amends N.D.C.C. § 12-60-16.1 relating to definitions and defines biometric data and amends N.D.C.C. § 12-60-16.2 relating to criminal history record information and reportable events to include biometric data. Senate Bill No. 2215 also amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. The amendments became effective August 1, 2015.

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Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures

cc: John Bjornson, Legislative Council



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September 15, 2015

The Honorable Karen Karls
State Representative
2112 Senate Drive
Bismarck, ND 58501-1978

Dear Representative Karls:

You were a co-sponsor of Senate Bill No. 2215 in the sixty-fourth session of the North Dakota Legislative Assembly. Senate Bill No. 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill No. 2215 amends N.D.C.C. § 12-60-16.1 relating to definitions and defines biometric data and amends N.D.C.C. § 12-60-16.2 relating to criminal history record information and reportable events to include biometric data. Senate Bill No. 2215 also amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. The amendments became effective August 1, 2015.

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Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures
cc: John Bjornson, Legislative Council



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September 15, 2015

The Honorable Lois Delmore
State Representative
714 South 22nd Street
Grand Forks, ND 58201-4138

Dear Representative Delmore:

You were a co-sponsor of Senate Bill No. 2215 in the sixty-fourth session of the North Dakota Legislative Assembly. Senate Bill No. 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill No. 2215 amends N.D.C.C. § 12-60-16.1 relating to definitions and defines biometric data and amends N.D.C.C. § 12-60-16.2 relating to criminal history record information and reportable events to include biometric data. Senate Bill No. 2215 also amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. The amendments became effective August 1, 2015.

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Sincerely,

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Dallas L. Carlson, Director
ND Bureau of Criminal Investigation

Enclosures

cc: John Bjornson, Legislative Council

Brockner, Liz

From: Brockner, Liz
Sent: Tuesday, September 15, 2015 2:53 PM
To: Poolman, Nicole
Subject: SB 2215-Proposed Administrative Rule Changes
Attachments: Sen Poolman-NDAC 10-01.pdf; Notice NDAC 10-01 proposed amendments.pdf; NDAC 10-01 proposed amendments.pdf

Good afternoon.

You were a co-sponsor of Senate Bill 2215, which made several changes relating to criminal history record information, retention of fingerprints and other information by the BCI, and exchange of criminal history record information with another state's criminal repository. The POST Board has prepared proposed changes to the North Dakota Administrative Code to implement the legislation. Attached please find a copy of the Notice of Intent to Amend Administrative Rules and a copy of the proposed Rules, as required by N.D.C.C. Section 28-32-10(2).

Thank you.

Liz Brockner

Executive Assistant to the Attorney General

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

Wayne Stenehjem, Attorney General

600 E. Boulevard Avenue | Dept. 125 | Bismarck, ND 58505

Tel: 701-328-2213 | Fax: 701-328-2226

email: lbrocker@nd.gov

www.ag.nd.gov

Brocker, Liz

From: Brocker, Liz
Sent: Tuesday, September 15, 2015 2:53 PM
To: Nelson, Carolyn C.
Subject: SB 2215-Proposed Administrative Rule Changes
Attachments: Sen Nelson-NDAC 10-01.pdf; Notice NDAC 10-01 proposed amendments.pdf; NDAC 10-01 proposed amendments.pdf

Good afternoon.

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Liz Brocker

Executive Assistant to the Attorney General

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email: lbrocker@nd.gov

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Brocker, Liz

From: Brocker, Liz
Sent: Tuesday, September 15, 2015 2:53 PM
To: Karls, Karen
Subject: SB 2215-Proposed Administrative Rule Changes
Attachments: Rep Karls-NDAC 10-01.pdf; Notice NDAC 10-01 proposed amendments.pdf; NDAC 10-01 proposed amendments.pdf

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email: lbrocker@nd.gov

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Brocker, Liz

From: Brocker, Liz
Sent: Tuesday, September 15, 2015 2:53 PM
To: Dockter, Jason D.
Subject: SB 2215-Proposed Administrative Rule Changes
Attachments: Rep Dockter-NDAC 10-01.pdf; Notice NDAC 10-01 proposed amendments.pdf; NDAC 10-01 proposed amendments.pdf

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Brocker, Liz

From: Brocker, Liz
Sent: Tuesday, September 15, 2015 2:53 PM
To: Delmore, Lois M.
Subject: SB 2215-Proposed Administrative Rule Changes
Attachments: Rep Delmore-NDAC 10-01.pdf; Notice NDAC 10-01 proposed amendments.pdf; NDAC 10-01 proposed amendments.pdf

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Brocker, Liz

From: Brocker, Liz
Sent: Tuesday, September 15, 2015 2:53 PM
To: Casper, Jon
Subject: SB 2215-Proposed Administrative Rule Changes
Attachments: Sen Casper-NDAC 10-01.pdf; Notice NDAC 10-01 proposed amendments.pdf; NDAC 10-01 proposed amendments.pdf

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NOTICE OF INTENT TO AMEND AND ADOPT ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Attorney General will hold a public hearing to address proposed amendments to the North Dakota Administrative Code, Title 10, Article 10-01, Chapter 10-01-01, relating to the organization structure of the Office of the North Dakota Attorney General, and to Article 10-13, Chapters 10-13-01, 10-13-02, 10-13-03, 10-13-04, 10-03-05, 10-03-06, 10-03-07, 10-03-08, 10-03-09, 10-03-10, 10-03-11, 10-03-12, 10-03-13, and 10-13-14, relating to Criminal History Record Information, and the adoption of new rules to the North Dakota Administrative Code, Title 10, Article 10-18, Chapter 10-18-01, relating to Criminal Justice Data Information Sharing, at 1:00 p.m. on Tuesday, October 13, 2015, at the Bureau of Criminal Investigation, 4205 State Street, Bismarck, North Dakota, 58503-0603.

The proposed rulemaking implements Senate Bills 2003 and 2215 enacted by the Sixty-fourth Legislative Assembly.

Senate Bill 2215 sponsors are Senators Jonathan Casper, Carolyn Nelson, and Nicole Poolman and Representatives Lois Delmore, Jason Dockter, and Karen Karls.

Senate Bill No. 2003 is the appropriation bill for the Office of the Attorney General and does not have any individual sponsors.

1. Rulemaking for Senate Bill 2215.

Senate Bill 2215 relates to criminal history record information and amends N.D.C.C. § 12-60-07.1 and provides for a biometric data system for identification purposes for criminal history record information. Senate Bill 2215 amends N.D.C.C. section 12-60-16.1

relating to definitions and defines biometric data and amends N.D.C.C. sections 12-60-16.2, 12-60-16.6, and 12-60-16.9 relating to criminal history record information and reportable events to include biometric data. Senate Bill 2215 amends subsection 1 of section 12-60-24 to authorize retention of fingerprints and other identifying information by the Bureau of Criminal Investigation and the Federal Bureau of Investigation and also the exchange of criminal history record information with another state's criminal identification bureau or central repository for criminal history record information. Senate Bill 2215 also amends section 12-1-32-15 relating to sex offender registration to include biometric data.

The proposed rulemaking to Chapter 10-01-01 amends the current language relating to the divisions and functions of the Office of the Attorney General and specifically amends section 10-01-01-01 to add divisions and describe the duties of the divisions of the Office of the Attorney General and adds section 10-01-01-02 relating to inquiries to the Office of the Attorney General.

The proposed rulemaking to Chapter 10-13-01 amends and updates the sections relating to reporting criminal history record information and adds biometric data to criminal history record information. The proposed rulemaking to Chapter 10-13-02 amends and updates the responsibilities of the Bureau of Criminal Investigation for collecting criminal history record information. The proposed rulemaking to Chapter 10-13-03 amends and updates the sections relating to maintaining criminal history record information, and includes electronic criminal history record information. The proposed rulemaking to Chapter 10-13-04 amends and updates the sections relating to the exchange and disclosure of criminal history record information and requires transaction logs of requests for criminal history record information and the retention of the response to be maintained for three years. The amendments also update federal law requirements for criminal history record information disclosed for national security purposes. The

proposed rulemaking to Chapter 10-13-05 amends and updates the sections relating to the dissemination of criminal history record information and adds biometric data to criminal history record information and specifies the fees for record checks must be in accordance with North Dakota Century Code section 12-60-16.9. A new section is added to authorize the retention of fingerprint and other identifying information at the request of the agency, official, or entity that submitted the records, it requires notice to the record subject of the retention, and authorizes the search against future submissions, including latent fingerprint searches. The proposed rulemaking to Chapter 10-13-06 amends and updates the sections relating to maintaining security and security systems to prevent unauthorized access to criminal history record information. The proposed rulemaking to Chapter 10-13-07 amends and updates the sections relating to the inspection and challenge of criminal history record information by a record subject or the record subject's authorized representative. The proposed rulemaking to Chapter 10-13-08 amends and updates the sections relating to audits of criminal history record information systems. The proposed rulemaking to Chapter 10-13-09 amends and updates the section relating to the form of agreements between criminal justice agencies. The proposed rulemaking to Chapter 10-13-10 amends and updates the sections relating to the use of criminal history record information for research and statistical purposes. The proposed rulemaking to Chapter 10-13-11 amends and updates the sections relating to purging or sealing criminal history record information. The proposed rulemaking to Chapter 10-13-12 amends and updates the sections relating to criminal justice agency and prosecutor responsibilities for reporting criminal history record information and adds biometric data to criminal history record information. The proposed rulemaking to Chapter 10-13-13 amends and updates the section relating to time limits for reporting criminal history record information of reportable events. The

proposed rulemaking to Chapter 10-13-14 amends and updates the definition section of the rules and adds “agency”, “biometric data”, the “Bureau of Criminal Investigation”, “NCIC”, “ORI”, “rap back”, “record subject”, “reportable event”, and “sealed record” as terms in the definition section.

2. Rulemaking for Senate Bill No. 2003.

Section 9 of Senate Bill No. 2003 transferred the Criminal Justice Data Information Sharing System from the Information Technology Department to the Office of the Attorney General.

Article 10-18 is a new article in Title 10 and relates to the Criminal Justice Data Information Sharing system. Article 10-18 includes chapter 10-18-01, which is comprised of six sections.

Section 10-18-01-01 is the definition section and includes definitions for “access”, “advisory board”, “agency”, “applicant”, “authorized agency”, “authorized user”, “biometric data”, “chief officer”, “court”, “criminal history record information”, “criminal justice data information system”, “NCIC”, and “ORI”.

Section 10-18-01-02 provides for the organization and operation of the Criminal Justice Information Advisory Board, which will include representatives of the North Dakota Supreme Court, the Department of Emergency Services, the Department of Corrections and Rehabilitation, the North Dakota Highway Patrol, the Bureau of Criminal Investigation, the Information Technology Department, the Department of Transportation, a City Police Department, a County Sheriff’s Office, a State’s Attorney’s Office, City Government, and County Government. The chief of the Bureau of Criminal Investigation will be the chairman.

Section 10-18-01-03 provides the procedures and requirements for access to the criminal justice data information sharing system.

Section 10-18-01-04 provides for the security requirements for the criminal justice data information sharing system.

Section 10-18-01-05 provides for denial, suspension, or revocation of access to the criminal justice data information sharing system.

Section 10-18-01-06 provides for notification and review of denial, suspension, or revocation of access to the criminal justice data information sharing system.

The proposed rulemaking is not expected to have an impact on the regulated community in excess of fifty thousand dollars (\$50,000.00).

The proposed rules may be reviewed at the Office of the North Dakota Attorney General, Bureau of Criminal Investigation, 4205 State Street, Bismarck, North Dakota, 58503-0603.

A copy of the proposed rules and/or a regulatory analysis may be requested by writing the Office of the North Dakota Attorney General, Bureau of Criminal Investigation, 4205 State Street, PO Box 1054, Bismarck, North Dakota, 58502-1054 or calling 701-328-5500. Written or oral comments on the proposed rules sent to the above address or telephone number and received by October 23, 2015 will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Attorney General's Office at the above telephone number or address at least 10 days prior to the public hearing.

Dated this 15th day of September, 2015.



Dallas L. Carlson, Director
ND Bureau of Criminal Investigation