

**SENATE BILL NO. 2096**

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new subsection to section 50-11-06.8 of the North  
2 Dakota Century Code, relating to when fingerprints and a criminal history record investigation  
3 are required of an adult family foster care provider; and to amend and reenact subsection 2 of  
4 section 50-11-02, section 50-11-02.4, subsection 5 of section 50-11-06.8, and section  
5 50-11-06.9 of the North Dakota Century Code, relating to when fingerprints are not required of a  
6 foster care provider, when a law enforcement agency is to take fingerprints of persons providing  
7 foster care services, and when a criminal history record investigation is not required of foster  
8 care providers.

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

10 **SECTION 1. AMENDMENT.** Subsection 2 of section 50-11-02 of the North Dakota  
11 Century Code is amended and reenacted as follows:

12 2. Before licensing or approving a facility providing foster care for children or adults,  
13 the department shall seek a criminal history record when required by ~~section~~  
14 ~~50-11-06.8~~ this chapter. The department shall consider any criminal history record  
15 information available at the time a licensing or approval decision is made.

16 **SECTION 2. AMENDMENT.** Section 50-11-02.4 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **50-11-02.4. Criminal history record investigation - Fingerprinting not required.**

19 1. a. Except as provided in section 50-11-06.9, each facility providing foster care  
20 for children shall secure from any individual employed by the facility and any  
21 adult living in the facility, but not being provided care in the facility, identifying  
22 information other than fingerprints, that is appropriate to accomplish a  
23 statewide criminal history record investigation.

- 1           b. Except as provided in section 50-11-06.9, the department shall secure from  
2           any individual employed by, or providing care in, an adult family foster care  
3           facility and any adult living in the facility, but not being provided care in the  
4           facility, identifying information other than fingerprints, that is appropriate to  
5           accomplish a statewide criminal history record investigation.
- 6           2. Fingerprints need not be taken and a nationwide background check need not be  
7           made if an individual:
- 8           ~~(1)~~ a. Has resided continuously in this state for eleven years or since reaching age  
9           eighteen, whichever is less;
- 10          ~~(2)~~ b. Is on active United States military duty or has resided continuously in this  
11          state since receiving an honorable discharge; or
- 12          ~~(3)~~ c. Is excused from providing fingerprints under rules adopted by the department.
- 13          ~~2.~~ 3. The department shall verify that sufficient identifying information has been  
14          provided. Upon verification, the department shall submit that information to the  
15          bureau of criminal investigation.
- 16          ~~3.~~ 4. The bureau of criminal investigation shall provide any criminal history record  
17          information that may lawfully be made available under chapter 12-60 to the  
18          department. The department shall provide a copy of any response received from  
19          the bureau of criminal investigation to the facility.
- 20          ~~4.~~ 5. The department shall pay the cost of securing any criminal history record  
21          information made available under chapter 12-60.
- 22          ~~5.~~ 6. The department shall consult with the bureau of criminal investigation to determine  
23          the identifying information, other than fingerprints, appropriate to accomplish a  
24          statewide criminal history record investigation.
- 25          ~~6.~~ 7. The department may adopt emergency rules under this section without the finding  
26          otherwise required under section 28-32-02.

27           **SECTION 3.** A new subsection to section 50-11-06.8 of the North Dakota Century Code  
28 is created and enacted as follows:

29           Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall  
30           secure from a law enforcement agency or any other agency authorized to take  
31           fingerprints, two sets of fingerprints and all other information necessary to secure

- 1           state criminal history record information and a nationwide background check under  
2           federal law from:  
3           a. Any individual employed by, or providing care in, an adult family foster care  
4           facility; and  
5           b. Any adult living in an adult family foster care facility, but not being provided  
6           care in the facility.

7           **SECTION 4. AMENDMENT.** Subsection 5 of section 50-11-06.8 of the North Dakota  
8 Century Code is amended and reenacted as follows:

- 9           5. Upon request by the operators of a facility, a law enforcement agency shall take  
10           fingerprints of persons described in ~~subdivisions a and b of subsection 4~~ this  
11           section if the request is made for purposes of this section.

12           **SECTION 5. AMENDMENT.** Section 50-11-06.9 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **50-11-06.9. Criminal history record investigation - When not required.** A criminal  
15 history record investigation may not be required, under section 50-11-06.8 or section  
16 50-11-02.4, of a family foster care home for children or of a family foster care home for adults  
17 licensed or approved on August 1, 1999, for so long as that home remains continuously  
18 licensed or approved.