

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.

b. Except as provided in section 50-11-06.9, the department shall secure from any individual employed by, or providing care in, an adult family foster care facility and any adult living in the facility, but not being provided care in the facility, identifying information other than fingerprints, that is appropriate to accomplish a statewide criminal history record investigation.

2. Fingerprints need not be taken and a nationwide background check need not be made if an individual:

~~(1)~~ a. Has resided continuously in this state for eleven years or since reaching age eighteen, whichever is less;

~~(2)~~ b. Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or

~~(3)~~ c. Is excused from providing fingerprints under rules adopted by the department.

~~2.~~ 3. The department shall verify that sufficient identifying information has been provided. Upon verification, the department shall submit that information to the bureau of criminal investigation.

~~3.~~ 4. The bureau of criminal investigation shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.

~~4.~~ 5. The department shall pay the cost of securing any criminal history record information made available under chapter 12-60.

~~5.~~ 6. The department shall consult with the bureau of criminal investigation to determine the identifying information, other than fingerprints, appropriate to accomplish a statewide criminal history record investigation.

~~6.~~ 7. The department may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

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

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

state criminal history record information and a nationwide background check under federal law from:

a. Any individual employed by, or providing care in, an adult family foster care facility; and

b. Any adult living in an adult family foster care facility, but not being provided care in the facility.

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

5. Upon request by the operators of a facility, a law enforcement agency shall take fingerprints of persons described in ~~subdivisions a and b of subsection 1~~ this section if the request is made for purposes of this section.

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

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