

Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009

HOUSE BILL NO. 1311
(Representatives Dahl, Gruchalla, Kretschmar)
(Senators Fischer, J. Lee, Robinson)

AN ACT to amend and reenact sections 12-60-16.1 and 12-60-16.6 of the North Dakota Century Code, relating to criminal history record information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-60-16.1 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.1. Definitions. As used in sections 12-60-16.1 through 12-60-16.10, unless the context otherwise requires:

1. "Bureau" means the bureau of criminal investigation.
2. "Court" means the supreme court, district courts, and municipal courts of the North Dakota judicial system.
3. "Criminal history record" means the compilation of criminal history record information of a person reported to the bureau in accordance with this chapter.
4. "Criminal history record information" includes information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other criminal charges, any dispositions arising therefrom, sentencing, correctional supervision, and release.
- ~~4.~~ 5. "Criminal justice agency" means any government law enforcement agency or entity authorized by law to provide information regarding, or to exercise the powers of, arrest, detention, prosecution, correctional supervision, rehabilitation, or release of persons suspected in, charged with, or convicted of, a crime.
- ~~5.~~ 6. "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:
 - a. The transmittal of the information within a criminal justice agency.
 - b. The reporting of the information as required by section 12-60-16.2.
 - c. The transmittal of the information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.
- ~~6.~~ 7. "Noncriminal justice agency" means an entity that is not a criminal justice agency.
- ~~7.~~ 8. "Record subject" means the person who is the primary subject of a criminal history record. The term includes any representative designated by that person by power of attorney or notarized authorization. If the subject of the record is under legal disability, the term includes that person's parents or duly appointed legal representative.
- ~~8.~~ 9. "Reportable event" means an interaction with a criminal justice agency for which a report is required to be filed under section 12-60-16.2. The term includes only those events in which the subject of the event is an adult or a juvenile adjudicated as an adult.

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

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

1. The criminal history record information has not been purged or sealed.
2. The criminal history record information is of a conviction, including a conviction for violating section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-06.1, or 12.1-20-11 notwithstanding any disposition following a deferred imposition of sentence; or the criminal history record information is of a reportable event occurring within three years preceding the request.
3. The request is written and contains:
 - a. The name of the requester.
 - b. The fingerprints of the record subject or, if the request is made without submitting the fingerprints, the request must also include the name of the record subject and at least two items of information used by the bureau to retrieve criminal history records, including:
 - (1) The state identification number assigned to the record subject by the bureau.
 - (2) The social security number of the record subject.
 - (3) The date of birth of the record subject.
 - (4) A specific reportable event identified by date and either agency or court.
4. The identifying information supporting a request for a criminal history record does not match the record of more than one individual.

In order to confirm a record match, the bureau may contact the requester to collect additional information if a request contains an item of information that appears to be inaccurate or incomplete. This section does not prohibit the disclosure of a criminal history record by the requester or other persons after the dissemination of the record by the bureau to the requester.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1311.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 42 Nays 1 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State