

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2147

Introduced by

Senators Nalewaja, Cook, LaFountain

Representative Sandvig

1 A BILL for an Act to create and enact two new sections to chapter 50-11 of the North Dakota
2 Century Code, relating to fingerprinting of individuals housed or employed by foster care
3 providers; and to amend and reenact section 50-11-02 of the North Dakota Century Code,
4 relating to terms and conditions for licensing foster care facilities.

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

6 **SECTION 1. AMENDMENT.** Section 50-11-02 of the 1995 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **50-11-02. License granted - Term - Conditions.**

- 9 1. The department shall grant a license for the operation of a facility receiving
10 persons for foster care, for a period of not more than two years, to reputable and
11 responsible persons upon showing that:
- 12 a. The premises to be used are in fit sanitary condition and properly equipped to
13 provide good care for all persons who may be received;
 - 14 b. The persons in active charge of the facility are properly qualified to carry on
15 efficiently the duties required of them;
 - 16 c. The facility is likely to be conducted for the public good in accordance with
17 sound social policy and with due regard to the health, morality, and well-being
18 of all persons cared for in the facility; and
 - 19 d. The facility will be maintained according to the standards prescribed for its
20 conduct by the rules of the department.
- 21 2. Before licensing or approving a facility ~~for~~ providing foster care for children, the
22 department ~~may investigate the background of an individual living or working in the~~
23 facility shall seek a criminal history record when required by section 2 of this Act.

1 The department shall consider any criminal history record information available at
2 the time a licensing or approval decision is made.

3 3. The department shall determine, in accordance with rules of the department to
4 determine, whether a license may be issued to a facility that houses or employs
5 any individual who has a criminal record.

6 **SECTION 2.** A new section to chapter 50-11 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Criminal background investigation.**

- 9 1. Except as provided in subsection 6, each facility providing foster care for children
10 shall secure, from a law enforcement agency or any other agency authorized to
11 take fingerprints, two sets of fingerprints and shall provide all other information
12 necessary to secure state criminal history record information and a nationwide
13 background check under the National Child Protection Act of 1993 [Pub. L.
14 103-209; 107 Stat. 2490; 42 U.S.C. 5119, et seq.], as amended, from:
- 15 a. Any individual employed by the facility; and
16 b. Any adult living in the facility, but not being provided care in the facility.
- 17 2. The facility shall assure that information obtained under subsection 1 is provided to
18 the department.
- 19 3. Upon receipt of all fingerprints and necessary information relating to a license
20 request, the department shall submit the information and fingerprints to the bureau
21 of criminal investigation. The department shall provide a copy of any response
22 received from the bureau of criminal investigation to the facility.
- 23 4. The bureau of criminal investigation shall request a nationwide background check
24 from the federal bureau of investigation and, upon receipt of a response, provide
25 the response of the federal bureau of investigation to the department. The bureau
26 shall also provide any criminal history record information that may lawfully be
27 made available under chapter 12-60 to the department.
- 28 5. Upon request by the operators of a facility, a law enforcement agency shall take
29 fingerprints of persons described in subdivisions a and b of subsection 1 if the
30 request is made for purposes of this section.

1 6. This section does not apply to a family foster care home for children if the home
2 was licensed under this chapter on July 31, 1995, and has remained licensed
3 continuously thereafter.

4 7. The department shall pay the cost of securing fingerprints, any criminal history
5 record information made available under chapter 12-60, and a nationwide
6 background check.

7 **SECTION 3.** A new section to chapter 50-11 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Background investigations - Fees.** Each facility shall obtain, from any adult living in
10 the facility, but not being provided care in the facility, and from any individual employed by the
11 facility, two sets of that individual's fingerprints from a law enforcement agency or other local
12 agency authorized to take fingerprints and shall request that agency to submit the fingerprints
13 and a completed fingerprint card for each set to the department. The department shall submit
14 one set of fingerprints to the federal bureau of investigation and one set to the bureau of
15 criminal investigation to determine if there is any criminal history record information regarding
16 the individual. The results of the investigations must be forwarded to the department. An
17 agency that takes fingerprints as provided under this section may charge a reasonable fee to
18 offset the costs of the fingerprinting.