

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2147
(Senators Nalewaja, Cook, LaFountain)
(Representative Sandvig)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to fingerprinting of individuals housed or employed by foster care providers; and to amend and reenact section 50-11-02 of the North Dakota Century Code, relating to terms and conditions for licensing foster care facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. The department shall grant a license for the operation of a facility receiving persons for foster care, for a period of not more than two years, to reputable and responsible persons upon showing that:
 - a. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all persons who may be received;
 - b. The persons in active charge of the facility are properly qualified to carry on efficiently the duties required of them;
 - c. The facility is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all persons cared for in the facility; and
 - d. The facility will be maintained according to the standards prescribed for its conduct by the rules of the department.
2. Before licensing or approving a facility for providing foster care for children, the department may investigate the background of an individual living or working in the facility shall seek a criminal history record when required by section 2 of this Act. The department shall consider any criminal history record information available at the time a licensing or approval decision is made.
3. The department shall determine, in accordance with rules of the department to determine, whether a license may be issued to a facility that houses or employs any individual who has a criminal record.

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

Criminal background investigation.

1. Except as provided in subsection 6, each facility providing foster care for children shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under the National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119, et seq.], as amended, from:

- a. Any individual employed by the facility; and
- b. Any adult living in the facility, but not being provided care in the facility.
2. The facility shall assure that information obtained under subsection 1 is provided to the department.
3. Upon receipt of all fingerprints and necessary information relating to a license request, the department shall submit the information and fingerprints to the bureau of criminal investigation. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.
4. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department. The bureau shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
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 if the request is made for purposes of this section.
6. This section does not apply to a family foster care home for children.
7. The department shall pay the cost of securing fingerprints, any criminal history record information made available under chapter 12-60, and a nationwide background check.
8. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2147.

Senate Vote: Yeas 44 Nays 2 Absent 3

House Vote: Yeas 82 Nays 8 Absent 7

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State