

SENATE BILL NO. 2117

Introduced by

Judiciary Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota
2 Century Code, relating to criminal history record checks for medicaid services applicants,
3 providers, and staff members; to amend and reenact section 50-06-01.9 of the North Dakota
4 Century Code, relating to criminal history record checks for job applicants, department staff,
5 county employees, contractors, and medicaid services applicants, providers, and staff
6 members; to provide an effective date; and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Section 50-06-01.9 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **50-06-01.9. Criminal history record checks.**

11 The department may require criminal history record checks as the department determines
12 appropriate for:

- 13 1. Employees~~Job applicants of the department and employees~~ of the department upon
14 hiring;
- 15 2. Job applicants of the county social service agencies and the department's and county
16 social service agencies' contractors and contractors' subcontractors that may have
17 access to federal tax information received from the United States internal revenue
18 service through a computer match and stored in the department's eligibility system;
- 19 3. A criminal history record check conducted under subsections 1 and 2 is valid for ten
20 years, after which the department shall require another criminal history record check
21 on employees of the department, county social service agencies, and the
22 department's and county social service agencies' contractors and contractors'
23 subcontractors that may have access to federal tax information received from the

1 United States internal revenue service through a computer match and stored in the
2 department's eligibility system;

3 4. Providers licensed by the department under chapter 50-12, as well as for any
4 employees of those providers; and

5 3-5. Applicants for early childhood services licensure, nonlicensed holders of a
6 self-declaration, and in-home providers under chapter 50-11.1. The department also
7 may require criminal history record checks for new staff members of those applicants,
8 providers of an applicant, and a provider if the provider is providing early childhood
9 services within the provider's home; and

10 6. Medicaid services applicant providers, medicaid services providers, staff members of
11 the applicant provider or provider, or an individual with a five percent or more direct or
12 indirect ownership interest in the applicant provider or provider under chapter 50-24.1.

13 **SECTION 2.** A new section to chapter 50-24.1 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Criminal background investigation - Fingerprinting required.**

16 1. When the department determines a criminal history record check is appropriate, a
17 provider applicant, a provider, staff members of the applicant provider or provider, or
18 an individual with a five percent or more direct or indirect ownership interest in the
19 provider applicant or provider shall secure, from a law enforcement agency or any
20 other agency authorized to take fingerprints, two sets of fingerprints and shall provide
21 all other information necessary to secure state criminal history record information and
22 a nationwide background check under federal law.

23 2. The applicant provider or provider shall assure the information obtained under
24 subsection 1 is provided to the department within thirty days of the notice date.

25 3. The department shall submit the information and fingerprints to the bureau of criminal
26 investigation to determine if there is any criminal history record information regarding
27 the applicant provider, provider, staff members of the applicant provider or provider, or
28 an individual with a five percent or more direct or indirect ownership interest in the
29 provider applicant or provider in accordance with section 12-60-24.

30 4. The bureau of criminal investigation shall request a nationwide background check from
31 the federal bureau of investigation and, upon receipt of response, provide the

1 response of the federal bureau of investigation to the department. The bureau also
2 shall provide any criminal history record information that lawfully may be made
3 available under chapter 12-60 to the department.

4 5. The results of the investigations must be forwarded to the department or to the
5 department's authorized agent. The department shall provide a copy of any response
6 received from the bureau of criminal investigation to the applicant provider or provider.

7 6. Upon request by the applicant provider, provider, staff members of the applicant
8 provider or provider, or an individual with a five percent or more direct or indirect
9 ownership interest in the provider applicant or provider, a law enforcement agency
10 shall take fingerprints of individuals described in this section if the request is made for
11 purposes of this section.

12 7. The applicant provider, provider, staff members of the applicant provider or provider, or
13 an individual with a five percent or more direct or indirect ownership interest in the
14 provider applicant or provider shall pay the cost of securing fingerprints, any criminal
15 history record information made available under chapter 12-60, and a nationwide
16 background check.

17 8. The department may charge a fee not to exceed thirty dollars for the purpose of
18 processing the background investigations.

19 9. An agency that takes fingerprints as provided under this section may charge a
20 reasonable fee to offset the cost of the fingerprinting.

21 10. The department may use the background information findings to determine approval of
22 medicaid services provider application or termination of enrollment as a medicaid
23 services provider. An individual denied or terminated as a medicaid service provider as
24 a result of the background investigation, may not be qualified to enroll as a provider,
25 have five percent or greater ownership or control interest in a medicaid services
26 provider, or submit claims for reimbursement through the department's medicaid
27 management information system.

28 **SECTION 3. EFFECTIVE DATE.** This Act becomes effective July 1, 2017

29 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.