

November 10, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2345

In addition to the amendments adopted by the Senate as printed on pages _____ of the Senate Journal, Senate Bill No. 2345 is further amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 27-20.4 of the North Dakota Century Code, relating to records and cooperative agreements to provide services to juveniles adjudicated in tribal court; to amend and reenact section 27-20.2-21 of the North Dakota Century Code, relating to the inspection of juvenile court files;"

Page 1, line 1, after "transfer" insert "; to provide for a legislative management study"

Page 1, line 2, replace "and" with "to provide a limitation; to provide an exemption;"

Page 1, line 2, after "date" insert "; and to provide an expiration date"

Page 1, line 5, after "**REPORT**" insert "- **EXEMPTION**"

Page 1, line 9, remove "from western"

Page 1, line 12, replace "the portion of the" with "a"

Page 1, line 22, after the period insert "The state water commission shall expend moneys from the state fiscal recovery fund before moneys from the resources trust fund. The funding provided under this subsection may be used for water projects related to flood control, water supply, and economic development."

Page 2, line 9, remove "outdoor"

Page 2, line 12, replace "\$1,500,000" with "\$1,000,000"

Page 3, line 14, after the period insert "The office of management and budget may transfer appropriation authority under this subsection to eligible state agencies for deferred maintenance of state-owned buildings."

Page 4, line 29, replace "\$75,000" with "\$300,000"

Page 6, line 10, replace "grants" with "financial assistance"

Page 6, line 13, after the first period insert "The requirements of chapter 54-44.4 do not apply to this subsection, including the selection of recipients and the disbursement of funds."

Page 6, line 15, replace "\$25,000,000" with "\$25,750,000"

Page 6, line 16, replace "grants" with "financial assistance"

Page 6, line 17, after "facilities" insert "and the state hospital"

Page 6, line 18, replace "grants" with "financial assistance"

Page 6, line 19, replace "grants" with "financial assistance"

Page 6, line 19, remove "and"

Page 6, line 20, replace "grants" with "financial assistance"

Page 6, line 20, after "facilities" insert ", \$350,000 is for nursing staff retention payments at the state hospital, and up to \$400,000 is for administrative expenses to the department relating to providing financial assistance to long-term care facilities"

Page 6, line 20, after the period insert "The requirements of chapter 54-44.4 do not apply to this subsection, including the selection of recipients and the disbursement of funds."

Page 6, line 23, after "projects" insert ", financial assistance"

Page 6, line 25, replace "expand" with "provide community-based"

Page 6, line 25, remove "in western"

Page 6, line 26, remove "North Dakota"

Page 6, line 28, after the period insert "Notwithstanding subsection 3 of section 50-11.1-14.1, the department may provide financial assistance to beneficiaries related to child care services. Notwithstanding subsection 2 of section 50-06-42.1, the department may award up to four grants rather than two grants for substance use disorder treatment voucher system grants. The requirements of chapter 54-44.4 do not apply to this subsection, including the selection of recipients and the disbursement of funds."

Page 6, line 31, remove "grants to"

Page 7, line 1, remove "organizations that provide"

Page 7, line 3, remove "awarded to organizations that do not provide or promote"

Page 7, line 4, replace "abortion services" with "used for the current and any future alternative-to-abortion services. The requirements of chapter 54-44.4 do not apply to the current alternative-to-abortion services agreement"

Page 7, line 23, replace "department of commerce" with "Bank of North Dakota"

Page 7, line 25, replace "department" with "Bank of North Dakota"

Page 7, line 30, replace "innovation technology loan fund" with "North Dakota development fund under chapter 10-30.5"

Page 8, line 3, replace "department of commerce" with "industrial commission"

Page 8, line 4, after "grants" insert ", as approved by the clean sustainable energy authority,"

Page 8, line 14, replace "establishing" with "adding or expanding"

Page 8, line 21, replace "establishing" with "adding or expanding"

Page 9, line 3, after "42." insert "There is appropriated from federal funds derived from the state fiscal recovery fund, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the attorney general for the purpose of information technology costs related to the implementation of charitable gaming tax changes for the period beginning with the effective date of this Act, and ending June 30, 2023.

43. There is appropriated from federal funds derived from the state fiscal recovery fund, not otherwise appropriated, the sum of \$807,500, or so much of the sum as may be necessary, to Williston state college for the purpose of an employee retention incentive pay program for the period beginning with the effective date of this Act and ending June 30, 2023.

44."

Page 9, replace lines 4 through 14 with:

"SECTION 2. AMENDMENT. Section 27-20.2-21 of the North Dakota Century Code is amended and reenacted as follows:

27-20.2-21. Inspection of court files and records - Penalty. (Effective through August 31, 2022)

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:
 - a. The judge and staff of the juvenile court.
 - b. The parties to the proceeding or the parties' counsel or the guardian ad litem of any party.
 - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court which must be given a copy of the findings and order of disposition when the agency or institution receives custody of the child. If a case involves the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963], the agency or institution having custody of the child shall serve the appropriate Indian Child Welfare Act service agent, tribe or tribal designee, or an Indian Child Welfare Act qualified expert witness with the findings and order of disposition.
 - d. Any court and the court's probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, before the criminal case, had been a party to the proceeding in juvenile court.
 - e. The professional staff of the uniform crime victims compensation program if necessary for the discharge of the duties of the staff pursuant to chapter 54-23.4.
 - f. A staff member of the division of children and family services of the department of human services or a law enforcement officer if necessary for the performance of that staff member's duties under section 50-11.1-06.2 or the federal National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
 - g. An employee or agent of the department of human services if necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.
 - h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.
 - i. The staff of a children's advocacy center if the juvenile or a victim of the child has been referred for or has received services at the children's advocacy center.

- j. A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.
 - k. The information technology department to the extent authorized by the supreme court for use in the statewide longitudinal data system.
2. Juvenile court files and records are also open to inspection with written leave of a juvenile court judge or judicial referee to whom juvenile court matters have been referred:
 - a. Upon a showing in writing of a legitimate interest in a proceeding or in the work of the juvenile court, but only to the extent necessary to respond to the legitimate interest; and
 - b. By the principal of any public or private school that is a member of the North Dakota high school activities association, or the superintendent of any school district that has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.
 3. In a proceeding under this chapter, if the juvenile court finds a child committed a delinquent act that constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the juvenile court shall report the finding to the director of the department of transportation within ten days.
 4. Following an adjudication of delinquency for an offense that would be a felony if committed by an adult, the child's school principal, chief administrative officer, or designated school guidance counselor, if requested, must be allowed access to the disposition order. Any other juvenile court files and records of a child may be disclosed to a superintendent or principal of the school in which the child is currently enrolled or in which the child wishes to enroll if the child's documented behavior appears to present a danger to self or to the students or staff of the school.
 5. Following an adjudication of delinquency for an offense that results in the prohibitions included in subsection 1 or 2 of section 62.1-02-01, if requested, a law enforcement officer must be allowed access to the disposition order.
 6. The juvenile court may notify a referring agency of the disposition of a case.
 7. Notwithstanding that juvenile court records are closed to the public, nothing in this section may be construed to limit the release upon request of general information not identifying the identity of any juvenile, witness, or victim in any proceeding under this chapter. Files in the clerk of court's office are open to public inspection if the related hearing was open to the public under section 27-20.3-13.

8. To the extent necessary to provide victim services or benefits under chapter 12.1-41, the judge and staff of the juvenile court may disclose information to refer a child, who may be a victim of human trafficking, to a program for runaway and homeless children located in the state and approved by the juvenile court of jurisdiction. Information disclosed under this subsection must remain confidential.
9. An individual with access or authorization to inspect juvenile court files and records under this section may not share the information contained in the files and records with any other person not authorized by law. An individual who violates this subsection is guilty of a class B misdemeanor.

Inspection of court files and records - Penalty. (Effective after August 31, 2022)

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:
 - a. The judge and staff of the juvenile court.
 - b. The parties to the proceeding or the parties' counsel or the guardian ad litem of any party.
 - c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court which must be given a copy of the findings and order of disposition when the agency or institution receives custody of the child. If a case involves the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963], the agency or institution having custody of the child shall serve the appropriate Indian Child Welfare Act service agent, tribe or tribal designee, or an Indian Child Welfare Act qualified expert witness with the findings and order of disposition.
 - d. Any court and the court's probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, before the criminal case, had been a party to the proceeding in juvenile court.
 - e. The professional staff of the uniform crime victims compensation program if necessary for the discharge of the duties of the staff pursuant to chapter 54-23.4.
 - f. A staff member of the division of children and family services of the department of health and human services or a law enforcement officer if necessary for the performance of that staff member's duties under section 50-11.1-06.2 or the federal National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].
 - g. An employee or agent of the department of health and human services if necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.

- h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.
 - i. The staff of a children's advocacy center if the juvenile or a victim of the child has been referred for or has received services at the children's advocacy center.
 - j. A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.
 - k. The information technology department to the extent authorized by the supreme court for use in the statewide longitudinal data system.
2. Juvenile court files and records are also open to inspection with written leave of a juvenile court judge or judicial referee to whom juvenile court matters have been referred:
 - a. Upon a showing in writing of a legitimate interest in a proceeding or in the work of the juvenile court, but only to the extent necessary to respond to the legitimate interest; and
 - b. By the principal of any public or private school that is a member of the North Dakota high school activities association, or the superintendent of any school district that has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.
 3. In a proceeding under this chapter, if the juvenile court finds a child committed a delinquent act that constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the juvenile court shall report the finding to the director of the department of transportation within ten days.
 4. Following an adjudication of delinquency for an offense that would be a felony if committed by an adult, the child's school principal, chief administrative officer, or designated school guidance counselor, if requested, must be allowed access to the disposition order. Any other juvenile court files and records of a child may be disclosed to a superintendent or principal of the school in which the child is currently enrolled or in which the child wishes to enroll if the child's documented behavior appears to present a danger to self or to the students or staff of the school.
 5. Following an adjudication of delinquency for an offense that results in the prohibitions included in subsection 1 or 2 of section 62.1-02-01, if requested, a law enforcement officer must be allowed access to the disposition order.
 6. The juvenile court may notify a referring agency of the disposition of a case.

7. Notwithstanding that juvenile court records are closed to the public, nothing in this section may be construed to limit the release upon request of general information not identifying the identity of any juvenile, witness, or victim in any proceeding under this chapter. Files in the clerk of court's office are open to public inspection if the related hearing was open to the public under section 27-20.3-13.
8. To the extent necessary to provide victim services or benefits under chapter 12.1-41, the judge and staff of the juvenile court may disclose information to refer a child, who may be a victim of human trafficking, to a program for runaway and homeless children located in the state and approved by the juvenile court of jurisdiction. Information disclosed under this subsection must remain confidential.
9. An individual with access or authorization to inspect juvenile court files and records under this section may not share the information contained in the files and records with any other person not authorized by law. An individual who violates this subsection is guilty of a class B misdemeanor.

SECTION 3. A new section to chapter 27-20.4 of the North Dakota Century Code is created and enacted as follows:

Tribal juvenile services cooperative agreement - Report to legislative management.

1. The department of corrections and rehabilitation, through the division of juvenile services; the supreme court, through the office of the state court administrator; and the Indian affairs commission may negotiate and enter a memorandum of understanding with the tribal government of a federally recognized Indian tribe in the state for the purpose of accepting and providing for, in accordance with this chapter, the treatment and rehabilitation of tribal juveniles who have been adjudicated in tribal court under tribal or federal laws. Under the pilot program and terms of a memorandum of understanding:
 - a. The tribal government, the department of corrections and rehabilitation, and the juvenile court may exchange information relevant to the treatment and rehabilitation needs of a tribal juvenile and the juvenile's family, including tribal court orders, medical and psychiatric reports, law enforcement reports, and other information pertinent to the referral;
 - b. The juvenile court and the department of corrections and rehabilitation shall provide services based on the individualized need of each tribal juvenile referred to and accepted by the tribal court, juvenile court, and department of corrections and rehabilitation;
 - c. The juvenile court and the department of corrections and rehabilitation shall maintain regular contact with the tribe regarding each tribal juvenile who has been placed in the supervision of the respective agency; and
 - d. The juvenile court and the department of corrections and rehabilitation may limit the number of tribal juveniles accepted based on criteria

developed by the juvenile court and the availability of state resources and services.

2. Before July first of each even-numbered year, the department of corrections and rehabilitation, the juvenile court, and the Indian affairs commission shall report and make recommendations to the legislative management on the status, effectiveness, performance, and sustainability of a memorandum of understanding established under this section.

SECTION 4. DEPARTMENT OF HUMAN SERVICES - FEDERAL FUNDING APPEAL LIMITATION. A person may not appeal a denial, revocation, reduction in services or payment, or the termination of a program or service by the department of human services due to the unavailability of federal coronavirus funding received under federal law resulting from the federal coronavirus pandemic emergency declaration for the period beginning with the effective date of this Act and ending June 30, 2023.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - WATER PROJECT STABILIZATION FUND. During the 2021-22 interim, the legislative management shall study the feasibility and desirability of establishing a water project stabilization fund to provide more consistent levels of funding for water projects from the resources trust fund in the times of revenue volatility. The study must include consideration of other stabilization funds, the timing of resources trust fund revenues and water project expenditures, and reporting requirements. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly."

Page 9, after line 15, insert:

"SECTION 7. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2023, and after that date is ineffective."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment adds subsection 43 to Section 1 to appropriate \$807,500 from the federal State Fiscal Recovery Fund to Williston State College for an employee retention incentive pay program.