

SENATE BILL NO. 2283

Introduced by

Senators Meyer, Larson

Representative Cory

1 A BILL for an Act to create and enact a new subsection to section 12-63-04 of the North Dakota
2 Century Code, relating to duties of the attorney general; and to amend and reenact section
3 12-60-17, subsection 1 of section 19-03.1-23, subsection 1 of section 19-03.1-23.1,
4 subdivision c of subsection 5 of section 53-06.1-06, section 53-12.1-12, and subsection 1 of
5 section 54-12-34 of the North Dakota Century Code, relating to duties of the attorney general.

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

7 **SECTION 1. AMENDMENT.** Section 12-60-17 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12-60-17. Superintendent to make rules and regulations.**

10 The superintendent, pursuant to chapter 28-32, shall make and promulgate such rules and
11 regulations, not inconsistent with the provisions of this chapter, as may be necessary and
12 proper for the efficient performance of the bureau's duties. Such rules and regulations must be
13 ~~printed and~~ forwarded to each state's attorney, sheriff, marshal, or other peace officer, and each
14 of said officers shall assist the superintendent in the performance of the superintendent's duties
15 by complying with such rules and regulations.

16 **SECTION 2.** A new subsection to section 12-63-04 of the North Dakota Century Code is
17 created and enacted as follows:

18 The board may issue certifications indicating whether law enforcement agencies
19 comply with requirements for grant funding purposes.

20 **SECTION 3. AMENDMENT.** Subsection 1 of section 19-03.1-23 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined
23 in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or
24 deliver, a controlled substance, or to deliver, distribute, or dispense a controlled

1 substance by means of the internet, but a person who violates section 12-46-24 or
2 12-47-21 may not be prosecuted under this subsection. A person who violates this
3 subsection with respect to:

- 4 a. A controlled substance classified in schedule I or II which is a narcotic drug, or
5 methamphetamine, is guilty of a class B felony.
- 6 b. Any other controlled substance classified in schedule I, II, or III, or a controlled
7 substance analog, except marijuana is guilty of a class B felony.
- 8 c. AMarijuana or a substance classified in schedule IV, is guilty of a class C felony.
- 9 d. A substance classified in schedule V, is guilty of a class A misdemeanor.

10 **SECTION 4. AMENDMENT.** Subsection 1 of section 19-03.1-23.1 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 1. A person who violates section 19-03.1-23 is subject to the penalties provided in
13 subsection 2 if:
 - 14 a. The offense was committed during a school sponsored activity or was committed
15 during the hours of six a.m. to ten p.m. if school is in session, the offense
16 involved the manufacture, delivery, or possession, with intent to manufacture or
17 deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of
18 the real property comprising a preschool facility, a public or private elementary or
19 secondary school, or a public career and technical education school, the
20 defendant was at least twenty-one years of age at the time of the offense, and
21 the offense involved the delivery of a controlled substance to a minor;
 - 22 b. The offense involved:
 - 23 (1) Fifty grams or more of a mixture or substance containing a detectable
24 amount of heroin;
 - 25 (2) Fifty grams or more of a mixture or substance containing a detectable
26 amount of:
 - 27 (a) Coca leaves, except coca leaves and extracts of coca leaves from
28 which cocaine, ecgonine, and derivatives of ecgonine or their salts
29 have been removed;
 - 30 (b) Cocaine, its salts, optical and geometric isomers, and salts of
31 isomers;

- 1 (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
2 (d) Any compound, mixture, or preparation that contains any quantity of
3 any of the substance referred to in subparagraphs a through c;
4 (3) Twenty-eight grams or more of a mixture or substance described in
5 paragraph 2 which contains cocaine base;
6 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
7 mixture or substance containing a detectable amount of phencyclidine;
8 (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a
9 mixture or substance containing a detectable amount of lysergic acid
10 diethylamide;
11 (6) Forty grams or more of a mixture or substance containing a detectable
12 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or ten
13 grams or more of a mixture or substance containing a detectable amount of
14 any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide;
15 (7) Fifty grams or more of a mixture or substance containing a detectable
16 amount of methamphetamine;
17 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a
18 mixture or substance containing a detectable amount of
19 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
20 (9) One hundred dosage units or one-half liquid ounce of a mixture or
21 substance containing a detectable amount of gamma-hydroxybutyrate or
22 gamma-butyrolactone or 1,4 butanediol or any substance that is an analog
23 of gamma-hydroxybutyrate; or
24 (10) One hundred dosage units or one-half liquid ounce of a mixture or
25 substance containing a detectable amount of flunitrazepam; or
26 ~~(11) Five hundred grams or more of marijuana; or~~
27 c. The defendant had a firearm in the defendant's actual possession at the time of
28 the offense.

29 **SECTION 5. AMENDMENT.** Subdivision c of subsection 5 of section 53-06.1-06 of the
30 North Dakota Century Code is amended and reenacted as follows:

1 c. Unless an employee is exempt by the gaming rules or attorney general, the
2 attorney general shall conduct a criminal history record check of each employee
3 of a licensed organization or distributor and charge a fee prescribed by section
4 12-60-16.9. The fee may be waived by the attorney general if a federal agency or
5 local law enforcement agency has done a record check. The attorney general
6 may require advance payment of any additional fee necessary to pay the cost of
7 a record check of a person for whom adequate background information sources
8 are not readily available. The advance payment must be placed in the attorney
9 general's refund fund. The unused funds must be returned to the person within
10 thirty days of the conclusion of the record check. Unless a federal or local law
11 enforcement agency conducts the record check, the attorney general shall notify
12 the organization or distributor ~~and person~~ of the result. The attorney general shall
13 keep the information confidential except in the proper administration of this
14 chapter or any gaming rule or to provide to an authorized law enforcement
15 agency.

16 **SECTION 6. AMENDMENT.** Section 53-12.1-12 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **53-12.1-12. Setoff of prize.**

- 19 1. A claimant agency and the director shall cooperate on the setoff of a winning lottery
20 ticket or promotional cash prize against a delinquent debt. A claimant agency is an
21 agency of the state of North Dakota that an individual owes money to or that collects
22 money on behalf of another party to satisfy a debt. The claimant agency and director
23 shall share necessary information, including the individual's full name, social security
24 number, and amount and type of debt, through a mutually convenient method to timely
25 achieve a setoff of a prize.
- 26 2. The director shall establish a debt setoff process in which a lottery prize claim of an
27 amount equal to or greater than six hundred dollars must be used to set off a
28 delinquent debt owed to or collected through a claimant agency. If the lottery prize
29 claim is paid through an annuitized payment option, each prize payment must be used
30 to set off a delinquent debt owed to or collected through a claimant agency.

- 1 3. If the director determines that a winning player owes a delinquent debt to or has a
2 delinquent debt collected through a claimant agency, the director shall set off the
3 amount of the debt from the prize payment due and notify the player, in writing, of the
4 setoff. If the setoff accounts for only a portion of the prize payment due, the remainder
5 of the prize payment must be paid to the player. The director shall transfer the setoff
6 amount to the claimant agency unless the player notifies the director, in writing, within
7 thirty days of the date of the notice of the setoff, that the player disputes all or part of
8 the debt owed to or collected through the claimant agency. If the director receives a
9 notification that the player disputes the setoff amount or claim upon which the setoff is
10 based, the director shall grant a hearing to the player to determine whether the setoff
11 is proper or the claim is valid, unless a review by a court is authorized under section
12 50-09-14. At a hearing, no issue may be reconsidered that the player has or could
13 have previously litigated in a court or administrative proceeding.
- 14 4. The lottery is discharged of all further liability for the amount of any debt setoff paid to
15 a claimant agency.
- 16 5. If two or more claimant agencies have delinquent accounts for the same player, the
17 director shall apportion the prize payment equally among them. However, a setoff to
18 the department of human services for child support payments has priority over all
19 other setoffs.
- 20 6. If the prize payment is insufficient to satisfy the entire debt, the remainder of the debt
21 may be collected by a claimant agency as provided by law or rule and resubmitted for
22 setoff against any other prize payment awarded.
- 23 7. If two or more claimant agencies make adverse claims to all or a part of a prize
24 payment, upon receipt of written notice from the claimant agencies setting forth their
25 claims, the director may deposit, in accordance with section 32-11-02, the contested
26 amount of the prize payment with the clerk of court in the district in which an action
27 pertaining to the contested amount is pending or with a court-authorized depository. If
28 one of the claims is for child support, the director shall transfer the setoff amount to the
29 state disbursement unit before depositing any remaining prize payment or award. Any
30 review of this transfer to the state disbursement unit must be done pursuant to section
31 50-09-14. Upon making the deposit or transfer, the state and its officials and

1 employees are discharged and relieved from further liability to any individual or
2 claimant agency related to the prize payment.

3 **SECTION 7. AMENDMENT.** Subsection 1 of section 54-12-34 of the North Dakota Century
4 Code is amended and reenacted as follows:

5 1. The attorney general shall maintain a criminal justice data information sharing system
6 within the bureau of criminal investigation for the exchange of criminal justice data
7 information by judicial, law enforcement, and emergency services agencies, and the
8 department of transportation. Only an authorized individual employed by a criminal
9 justice agency as defined in section 12-60-16.1, the department of transportation, a
10 state court, or the department of emergency services or any other individual approved
11 by the attorney general or the attorney general's designee may access the system. ~~To~~
12 ~~be eligible for~~For access to the criminal justice data information sharing system, an
13 individual shall undergo a criminal history background check, including a fingerprint
14 check, and meet eligibility access criteria in accordance with the rules adopted under
15 this section.