

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, section
4 29-04-02, subdivision c of subsection 5 of section 53-06.1-06, section 53-12.1-12, and
5 subsection 1 of section 54-12-34 of the North Dakota Century Code, relating to duties of the
6 attorney general and the prosecution of a felony.

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

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

10 **12-60-17. Superintendent to make rules and regulations.**

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

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

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

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

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

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

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

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

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

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

1 | **SECTION 5. AMENDMENT.** Section 29-04-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 | **29-04-02. Prosecution for felony other than murder within three years.**

4 | Except as otherwise provided by law, a prosecution for any felony other than murder must
5 be commenced within three years after its commission. Prosecution of felony offenses under
6 | chapter 12.1-23 or 50-24.8 must be commenced within the later of three years of commission of
7 the last act that is an element of the offense, three years of discovery of the stolen property, or
8 three years of discovery of the loss of the property or services. Nothing in this section prevents
9 a person prosecuted for murder from being found guilty of any included offense and punished
10 accordingly.

11 | **SECTION 6. AMENDMENT.** Subdivision c of subsection 5 of section 53-06.1-06 of the
12 North Dakota Century Code is amended and reenacted as follows:

- 13 | c. Unless an employee is exempt by the gaming rules or attorney general, the
14 attorney general shall conduct a criminal history record check of each employee
15 of a licensed organization or distributor and charge a fee prescribed by section
16 12-60-16.9. The fee may be waived by the attorney general if a federal agency or
17 local law enforcement agency has done a record check. The attorney general
18 may require advance payment of any additional fee necessary to pay the cost of
19 a record check of a person for whom adequate background information sources
20 are not readily available. The advance payment must be placed in the attorney
21 general's refund fund. The unused funds must be returned to the person within
22 thirty days of the conclusion of the record check. Unless a federal or local law
23 enforcement agency conducts the record check, the attorney general shall notify
24 the organization or distributor ~~and person~~ of the result. The attorney general shall
25 keep the information confidential except in the proper administration of this
26 chapter or any gaming rule or to provide to an authorized law enforcement
27 agency.

28 | **SECTION 7. AMENDMENT.** Section 53-12.1-12 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **53-12.1-12. Setoff of prize.**

- 2 1. A claimant agency and the director shall cooperate on the setoff of a winning lottery
3 ticket or promotional cash prize against a delinquent debt. A claimant agency is an
4 agency of the state of North Dakota that an individual owes money to or that collects
5 money on behalf of another party to satisfy a debt. The claimant agency and director
6 shall share necessary information, including the individual's full name, social security
7 number, and amount and type of debt, through a mutually convenient method to timely
8 achieve a setoff of a prize.
- 9 2. The director shall establish a debt setoff process in which a lottery prize claim of an
10 amount equal to or greater than six hundred dollars must be used to set off a
11 delinquent debt owed to or collected through a claimant agency. If the lottery prize
12 claim is paid through an annuitized payment option, each prize payment must be used
13 to set off a delinquent debt owed to or collected through a claimant agency.
- 14 3. If the director determines that a winning player owes a delinquent debt to or has a
15 delinquent debt collected through a claimant agency, the director shall set off the
16 amount of the debt from the prize payment due and notify the player, in writing, of the
17 setoff. If the setoff accounts for only a portion of the prize payment due, the remainder
18 of the prize payment must be paid to the player. The director shall transfer the setoff
19 amount to the claimant agency unless the player notifies the director, in writing, within
20 thirty days of the date of the notice of the setoff, that the player disputes all or part of
21 the debt owed to or collected through the claimant agency. If the director receives a
22 notification that the player disputes the setoff amount or claim upon which the setoff is
23 based, the director shall grant a hearing to the player to determine whether the setoff
24 is proper or the claim is valid, unless a review by a court is authorized under section
25 50-09-14. At a hearing, no issue may be reconsidered that the player has or could
26 have previously litigated in a court or administrative proceeding.
- 27 4. The lottery is discharged of all further liability for the amount of any debt setoff paid to
28 a claimant agency.
- 29 5. If two or more claimant agencies have delinquent accounts for the same player, the
30 director shall apportion the prize payment equally among them. However, a setoff to

1 the department of human services for child support payments has priority over all
2 other setoffs.

3 6. If the prize payment is insufficient to satisfy the entire debt, the remainder of the debt
4 may be collected by a claimant agency as provided by law or rule and resubmitted for
5 setoff against any other prize payment awarded.

6 7. If two or more claimant agencies make adverse claims to all or a part of a prize
7 payment, upon receipt of written notice from the claimant agencies setting forth their
8 claims, the director may deposit, in accordance with section 32-11-02, the contested
9 amount of the prize payment with the clerk of court in the district in which an action
10 pertaining to the contested amount is pending or with a court-authorized depository. If
11 one of the claims is for child support, the director shall transfer the setoff amount to the
12 state disbursement unit before depositing any remaining prize payment or award. Any
13 review of this transfer to the state disbursement unit must be done pursuant to section
14 50-09-14. Upon making the deposit or transfer, the state and its officials and
15 employees are discharged and relieved from further liability to any individual or
16 claimant agency related to the prize payment.

17 **SECTION 8. AMENDMENT.** Subsection 1 of section 54-12-34 of the North Dakota Century
18 Code is amended and reenacted as follows:

19 1. The attorney general shall maintain a criminal justice data information sharing system
20 within the bureau of criminal investigation for the exchange of criminal justice data
21 information by judicial, law enforcement, and emergency services agencies, and the
22 department of transportation. Only an authorized individual employed by a criminal
23 justice agency as defined in section 12-60-16.1, the department of transportation, a
24 state court, or the department of emergency services or any other individual approved
25 by the attorney general or the attorney general's designee may access the system. ~~To~~
26 ~~be eligible for~~For access to the criminal justice data information sharing system, an
27 individual shall undergo a criminal history background check, including a fingerprint
28 check, and meet eligibility access criteria in accordance with the rules adopted under
29 this section.