

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2283
(Senators Meyer, Larson)
(Representative Cory)

AN ACT to create and enact a new subsection to section 12-63-04 of the North Dakota Century Code, relating to duties of the attorney general; and to amend and reenact section 12-60-17, subsection 1 of section 19-03.1-23, subsection 1 of section 19-03.1-23.1, section 29-04-02, subdivision c of subsection 5 of section 53-06.1-06, section 53-12.1-12, and subsection 1 of section 54-12-34 of the North Dakota Century Code, relating to duties of the attorney general and the prosecution of a felony.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
 - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog, except marijuana is guilty of a class B felony.
 - c. AMarijuana or a substance classified in schedule IV, is guilty of a class C felony.
 - d. A substance classified in schedule V, is guilty of a class A misdemeanor.

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

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
 - a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
 - b. The offense involved:
 - (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
 - (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
 - (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
 - (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
 - (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
 - (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
 - (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
 - (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;
 - (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
 - (9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate; or
 - (10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam; or
 - (11) ~~Five hundred grams or more of marijuana; or~~

- c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

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

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

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

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

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

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

53-12.1-12. Setoff of prize.

1. A claimant agency and the director shall cooperate on the setoff of a winning lottery ticket or promotional cash prize against a delinquent debt. A claimant agency is an agency of the state of North Dakota that an individual owes money to or that collects money on behalf of another party to satisfy a debt. The claimant agency and director shall share necessary information, including the individual's full name, social security number, and amount and type of debt, through a mutually convenient method to timely achieve a setoff of a prize.
2. The director shall establish a debt setoff process in which a lottery prize claim of an amount equal to or greater than six hundred dollars must be used to set off a delinquent debt owed to or collected through a claimant agency. If the lottery prize claim is paid through an annuitized payment option, each prize payment must be used to set off a delinquent debt owed to or collected through a claimant agency.
3. If the director determines that a winning player owes a delinquent debt to or has a delinquent debt collected through a claimant agency, the director shall set off the amount of the debt from the prize payment due and notify the player, in writing, of the setoff. If the setoff accounts for only a portion of the prize payment due, the remainder of the prize payment must be paid to the player. The director shall transfer the setoff amount to the claimant agency unless the player notifies the director, in writing, within thirty days of the date of the notice of the setoff, that the player disputes all or part of the debt owed to or collected through the claimant agency. If the director receives a notification that the player disputes the setoff amount or

claim upon which the setoff is based, the director shall grant a hearing to the player to determine whether the setoff is proper or the claim is valid, unless a review by a court is authorized under section 50-09-14. At a hearing, no issue may be reconsidered that the player has or could have previously litigated in a court or administrative proceeding.

4. The lottery is discharged of all further liability for the amount of any debt setoff paid to a claimant agency.
5. If two or more claimant agencies have delinquent accounts for the same player, the director shall apportion the prize payment equally among them. However, a setoff to the department of human services for child support payments has priority over all other setoffs.
6. If the prize payment is insufficient to satisfy the entire debt, the remainder of the debt may be collected by a claimant agency as provided by law or rule and resubmitted for setoff against any other prize payment awarded.
7. If two or more claimant agencies make adverse claims to all or a part of a prize payment, upon receipt of written notice from the claimant agencies setting forth their claims, the director may deposit, in accordance with section 32-11-02, the contested amount of the prize payment with the clerk of court in the district in which an action pertaining to the contested amount is pending or with a court-authorized depository. If one of the claims is for child support, the director shall transfer the setoff amount to the state disbursement unit before depositing any remaining prize payment or award. Any review of this transfer to the state disbursement unit must be done pursuant to section 50-09-14. Upon making the deposit or transfer, the state and its officials and employees are discharged and relieved from further liability to any individual or claimant agency related to the prize payment.

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

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

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 Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2283.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 85 Nays 5 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State