

Testimony
House Bill 1073
House Judiciary Committee
January 6, 2021, 11:00 am
North Dakota Department of Environmental Quality

Good morning Chairman Klemin and members of the House Judiciary Committee. My name is David Glatt, Director of the North Dakota Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation and enforcement of many of the federal and state environmental protection programs in North Dakota. I provide this testimony in support of HB 1073.

To help ensure facility operational integrity and safe handling of specific hazardous materials, the DEQ can require individuals or responsible parties to complete a criminal history background check prior to gaining employment or receiving a permit or license to operate in the state. Some background checks may go beyond the state boundaries and require access to Federal Bureau of Investigation Criminal History Record Information (CHRI).

As part of the transition from the NDDOH to the DEQ, the US Department of Justice – FBI Office of the General Council reviewed NDCC 12-60-24 (2) as it relates to the requirement for state or federal background checks. It was determined the law as written did not qualify the state for access to the FBI CHRI pursuant to Pub. L 92-544. To allow access to the federal CHRI and provide clarity to the NDCC 12-60-24 (2) we are proposing the following:

Section 1 Amendment. Subdivision vv:

Line 15 Delete: ... *or an employee specified in occupation* ...

Line 16 add: ... *a job opening or a current employee...*

Line 18 and 19 Delete: ... *registration, certification or licensure by the department*

Line 19 and 20 add: ... *a radioactive materials license under chapter 23.1-03 or a solid waste permit under chapter 23.1-08*

Section 2 relates to activities conducted by the ND Department of Health.

Section 3 identifies that the Department has the authority to require a background check of an applicant for a license or permit under section 12-60-24. It goes on to state that if the applicant is not an individual, the state may require the individual responsible for the applicant to complete a background check and submit the information to the state at their cost.

These proposed changes to the statute have been provided to the DOJ for their review and concurrence.

This concludes my testimony and I stand for any questions.