

SENATE BILL NO. 2059

Introduced by

Senators Nalewaja, Robinson, W. Stenehjem

Representatives Brown, Grande

1 A BILL for an Act to amend and reenact section 25-03.1-43 of the North Dakota Century Code,
2 relating to making confidential commitment records of the department of human services
3 available to law enforcement in limited circumstances.

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

5 **SECTION 1. AMENDMENT.** Section 25-03.1-43 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **25-03.1-43. Confidential records.** All information and records obtained in the course
8 of an investigation, evaluation, examination, or treatment under this chapter and the presence
9 or past presence of a patient in a treatment facility must be kept confidential and not as public
10 records, except as the requirements of a hearing under this chapter may necessitate a different
11 procedure. All information and records are available to the court and, under regulations
12 established by the department, may be disclosed only to:

- 13 1. Physicians and providers of health, mental health, or social and welfare services
14 involved in caring for, treating, or rehabilitating the patient to whom the patient has
15 given written consent to have information disclosed.
- 16 2. Individuals to whom the patient has given written consent to have information
17 disclosed.
- 18 3. Persons legally representing the patient, including attorneys representing the
19 patient in commitment proceedings, upon proper proof of representation.
- 20 4. Persons authorized by a court order.
- 21 5. Persons doing research or maintaining health statistics, if the anonymity of the
22 patient is assured and the facility recognizes the project as a bona fide research or
23 statistical undertaking.

- 1 6. The department of corrections and rehabilitation in cases in which prisoners
2 sentenced to the state prison are patients in the state hospital on authorized
3 transfers either by voluntary admissions or by court order.
- 4 7. Governmental or law enforcement agencies when necessary to secure the return
5 of a patient who is absent without authorization from the facility where the patient
6 was undergoing evaluation or treatment, or when necessary to report a crime
7 committed on facility premises or against facility staff or patients, or threats to
8 commit such a crime. The disclosures must be directly related to a patient's
9 commission of a crime or threats to commit such a crime and are limited to the
10 circumstances of the incident, the name and address of the patient involved, and
11 the patient's last known whereabouts.
- 12 8. Qualified service organizations and third-party payers to the extent necessary to
13 perform their functions.
- 14 9. Victims and witnesses of a crime to the extent necessary to comply with the
15 notification requirements of subsection 16 of section 12.1-34-02.
- 16 10. Law enforcement agencies to confirm and investigate the address of a person
17 required to register under section 12.1-32-15.