

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1398
(Representatives Kroeber, Fairfield, Kretschmar)
(Senators Robinson, Wardner)

AN ACT to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to correctional facility files and records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12-44.1 of the North Dakota Century Code is created and enacted as follows:

Correctional facility files and records confidentiality.

1. The medical, psychological, and treatment records of an inmate are confidential and may not be disclosed directly or indirectly to any person, organization, or agency, except as provided in this section. A court may order the inspection of the records, or parts of the records, upon an application to the court and a showing that there is a proper and legitimate purpose for the inspection and the provision of written authorization from the inmate for the inspection. Notwithstanding any other provision of law relating to privilege or confidentiality, except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws, medical, psychological, or treatment records may be inspected by or disclosed to the following persons, organizations, or agencies without prior authorization from the inmate or an order from the court:
 - a. A criminal justice agency as defined in subsection 4 of section 44-04-18.7.
 - b. A division, department, official, or employee of the department of corrections and rehabilitation.
 - c. A federal, state, regional, county, or municipal correctional facility receiving physical custody of an inmate from the original correctional facility.
 - d. A municipal or district court.
 - e. The department of human services, a public hospital or treatment facility, or a licensed private hospital or treatment facility.
2.
 - a. A person, agency, or institution governed by statutory confidentiality requirements and receiving information or records under this section shall maintain the confidentiality requirements.
 - b. Except as provided in subdivision a of this subsection, a person, organization, or agency receiving confidential records under subsection 1 may not redisclose the records and must maintain the confidentiality of the records.
3. The employment or work release status of an inmate is an open record.
4. Records with respect to inmate identification, charges, criminal convictions, bail information, and intake and projected release dates are open records.
5. Records with respect to a sentenced inmate's institutional discipline and conduct and protective management are exempt records as defined under section 44-04-17.1.
6. Institutional discipline and conduct and protective management records of all other inmates are confidential records and may only be disclosed as provided in subsection 1.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1398.

House Vote: Yeas 95 Nays 0 Absent 3

Senate Vote: Yeas 46 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State