

TESTIMONY OF REP. LAWRENCE R. KLEMIN
SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
HOUSE BILL NO. 1499
MARCH 20, 2025

Members of the Senate State and Local Government Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here to testify in support of House Bill No. 1499. This bill relates to an open record exception for

The “Sunshine Law” in the North Dakota Constitution requires records of governmental bodies to be open to the public unless otherwise provided by law. Article XI, Section 6 provides:

Section 6. [Open records]

Unless otherwise provided by law, all **records** of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.

Section 44-04-17(3) of the North Dakota Century Code defines a “**confidential record**” as follows:

3. “Confidential meeting” or “**confidential record**” means all or part of a record or meeting that is either expressly declared confidential or is prohibited from being open to the public.

Section 44-04-18.3 currently provides that the telephone number and home address of prosecutors, state court officials, law enforcement employees, and correctional facility employees are confidential records and may not be disclosed. The purpose of HB 1499 is to add justices of the United States, federal court judges, and magistrate judges to the list of people whose telephone numbers and home addresses are confidential records and may not be disclosed. Federal justices and judges should be protected the same as state court justices and judges. A complete copy of Section 44-04-18.3 is attached to my testimony for your ease of reference.

Also attached to my testimony is a letter from U.S. District Judge Daniel Traynor of Bismarck citing incidents in the past decade where state and federal judges have been attacked. Serious threats to judges have increased by more than 400%.

Members of the Committee, I urge you to include federal court officials in Section 44-04-18.3 and to recommend “do pass” on HB 1499. Thank you.

Rep. Lawrence R. Klemin
District 47, Bismarck

44-04-18.3. Records of juvenile court supervisors and probation officers and law enforcement and correctional employees — Law enforcement work schedules — Confidential informants.

1. Except as provided in subsection 5, a telephone number and the home address of a prosecutor, supreme court justice, district court judge, judicial referee, juvenile court director or probation officer, an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential. Information contained in a personnel record of an employee of the department of corrections and rehabilitation may not be disclosed to an inmate in the legal custody of the department of corrections and rehabilitation confined in a jail, prison, or other correctional facility unless authorized by the director of the department of corrections and rehabilitation. Information contained in a personnel record of a law enforcement officer of a state or local law enforcement agency or in the personnel record of a correctional employee of a correctional facility subject to chapter 12-44.1 may not be disclosed to an inmate confined in a state correctional facility or correctional facility subject to chapter 12-44.1 unless authorized by the employing agency.
2. Records or other information that would reveal the identity, or endanger the life or physical well-being, of an undercover law enforcement officer is confidential. For purposes of this subsection, an “undercover law enforcement officer” means a full-time, salaried employee of a local or state law enforcement agency who acts surreptitiously or poses as someone other than a law enforcement officer while engaging in the investigation of a violation of law.
3. Any record containing the work schedule of employees of a law enforcement agency is exempt.
4. A law enforcement officer or prosecutor, within the scope of the employment of the officer or prosecutor, may provide assurances of confidentiality to a person providing information regarding violations of the law. Any information that would identify or provide a means of identifying a confidential informant, if the identity of the informant is not otherwise publicly known, is confidential and may be disclosed only as permitted by law.
5. A home address of an individual in subsection 1 which is included in a geographic information system, a property title record, or tax parcel data is confidential only if an individual in subsection 1 or the individual's employer submits a written request to the custodian of the records. The request will remain confidential for the remainder of a calendar year and must be renewed annually.

History

Source:

S.L. 1989, ch. 541, § 1; 1995, ch. 428, § 1; 1997, ch. 381, § 7; 2003, ch. 383, § 1; 2009, ch. 384, § 2; 2011, ch. 332, § 6; 2015, ch. 310, § 2, effective August 1, 2015; 2021, ch. 329, § 1, effective August 1, 2021.