

OFFICES AND OFFICERS

CHAPTER 395

HOUSE BILL NO. 1359

(Representatives Dorso, Clark)

NEPOTISM

AN ACT to amend and reenact sections 34-11.1-04.1, 44-04-09, and 44-04-10 of the North Dakota Century Code, relating to the state nepotism law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-11.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

34-11.1-04.1. Discrimination on basis of marital status in state employment prohibited - Exception. Each state employee is, if otherwise qualified, entitled to work with that state employee's spouse. A state agency may not discriminate against an employee or an applicant for employment, with respect to working conditions, work place assignment, or other privileges of employment, merely because the spouse of that employee or applicant is also an employee of that state agency. ~~However, the prohibition does not apply to employment of the spouse of a person who has the power to hire or fire, or to make evaluations of performance, with respect to the position involved.~~ Compliance with section 44-04-09 is not discrimination under this section.

SECTION 2. AMENDMENT. Section 44-04-09 of the North Dakota Century Code is amended and reenacted as follows:

44-04-09. Nepotism. ~~No head of any executive or administrative department, either elective or appointive, of this A state official or state employee, in the exercise of that official's or employee's duties, may appoint his wife or her husband, as the case may be not serve in a supervisory capacity over, or enter a personal service contract with, that official's or employee's parent by birth or adoption, spouse, son, or daughter by birth or adoption, stepchild, brother, or sister, to any position under the control or direction of said head of such department by whole or half blood or by adoption, brother-in-law or sister-in-law, or son-in-law or daughter-in-law. As used in this section, "supervisory capacity" means the authority to appoint, employ, hire, assign, transfer, promote, evaluate, reward, discipline, demote, or terminate. As used in this section, "evaluate" does not include evaluations by peers or subordinates. This section does not apply to an employment relationship or contract entered before the effective date of this Act; nor to any employment relationship or contract entered before the state official or employee assumed the supervisory capacity; nor to any temporary work arrangement necessary to meet a critical and urgent agency need.~~

SECTION 3. AMENDMENT. Section 44-04-10 of the North Dakota Century Code is amended and reenacted as follows:

44-04-10. Violation of provisions against nepotism - Penalty. Any moneys paid out, in violation of section 44-04-09, must be deducted from the salary of the ~~head of the department~~ hiring or contracting state official or state employee.

Approved March 31, 1999

Filed March 31, 1999

CHAPTER 396

SENATE BILL NO. 2076

(Industry, Business and Labor Committee)

(At the request of the State Board of Social Work Examiners)

OCCUPATIONAL AND PROFESSIONAL BOARD INFORMATION CONFIDENTIALITY

AN ACT to amend and reenact section 44-04-18.1 of the North Dakota Century Code, relating to confidentiality of personal information maintained by occupational and professional boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-18.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-04-18.1. Public employee personal, medical, and employee assistance records - Confidentiality - Personal information maintained by professional boards.

1. Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and may not be released without the written consent of the employee. As used in this section, the term "public employee" includes any person employed by a public entity.
2. Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's home address; home telephone number; photograph; medical information; motor vehicle operator's identification number; social security number; payroll deduction information; the name, address, phone number, date of birth, and social security number of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution.
3. Nonconfidential information contained in a personnel record of an employee of a public entity as defined in subdivision c of subsection 12 of section 44-04-17.1 is exempt.
4. Except as otherwise specifically provided by law, personal information regarding a licensee maintained by an occupational or professional board, association, or commission created by law is exempt. As used in this section, "licensee" means an individual who has applied for, holds, or has held in the past an occupational or professional license, certificate, permit, or registration issued by a state occupational or professional board, association, or commission.

Approved March 3, 1999
Filed March 4, 1999

CHAPTER 397**SENATE BILL NO. 2141**

(Education Committee)

(At the request of the State Board of Higher Education)

**BOARD OF HIGHER EDUCATION RECORD
CONFIDENTIALITY**

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to confidentiality of records of board of higher education and university system officers and employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Fundraising and donor records of board of higher education and university system exempt. Any donor or prospective donor name, address, telephone number, tax or financial record, or other personal information received or retained by a board of higher education or university system officer or employee is exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

Approved March 11, 1999

Filed March 11, 1999

CHAPTER 398**HOUSE BILL NO. 1138**

(Education Committee)

(At the request of the State Board of Higher Education)

STUDENT HEALTH RECORDS CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to confidentiality of patient records at college and university student health services and university system clinics.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Confidentiality of patient records at student health services and university system clinics. Any patient record of a patient at a state college or university student health service, university of North Dakota medical center or family practice center, or other university system medical center or clinic is confidential.

Approved March 15, 1999

Filed March 15, 1999

CHAPTER 399

SENATE BILL NO. 2313

(Senators St. Aubyn, Heitkamp, Holmberg)
(Representatives Bernstein, Nottestad, Price)

CONSUMER COMPLAINT INFORMATION CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to personal and financial information submitted to a state agency in a consumer complaint.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Personal and financial information in a consumer complaint. Personal and financial information submitted to a state agency as part of a consumer complaint, or gathered pursuant to an investigation of a consumer complaint, is an exempt record as defined in subsection 5 of section 44-04-17.1. For purposes of this section, "personal and financial information" means the home address, home telephone number, social security number, consumer report, and credit, debit, or electronic fund transfer card number of the complainant and any person on whose behalf the complaint is made, and any account number of a business or individual at a bank, brokerage, or other financial institution. "Personal and financial information" does not include the nature of the complaint, name of the complainant or any person on whose behalf the complaint was submitted, or the address or telephone number of the business that is the subject of the complaint.

Approved March 15, 1999
Filed March 16, 1999

CHAPTER 400**SENATE BILL NO. 2118**

(Political Subdivisions Committee)
(At the request of the Secretary of State)

DEED ACKNOWLEDGMENT FEES

AN ACT to amend and reenact section 44-05-03 of the North Dakota Century Code, relating to deed acknowledgment fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-05-03 of the North Dakota Century Code is amended and reenacted as follows:

44-05-03. Fee for taking acknowledgment and administering an oath. Any officer authorized by law to take and certify acknowledgment of a deed or other instrument is entitled to charge and receive not more than ~~one dollar~~ five dollars.

Approved March 3, 1999

Filed March 4, 1999

CHAPTER 401

HOUSE BILL NO. 1126

(Government and Veterans Affairs Committee)
(At the request of the Secretary of State)

NOTARY PUBLIC COMMISSION REVOCATION AND PROHIBITIONS

AN ACT to amend and reenact sections 44-06-11 and 44-06-13.1 of the North Dakota Century Code, relating to filing of notice of revocation of a notary commission and prohibited acts of a notary public.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-06-11 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-06-11. Revocation of notary commission - Notice. In case the commission of a person appointed as a notary is subject to a revocation action, the secretary of state shall give notice thereof by mail to that person immediately ~~and to the clerk of the district court of the proper county,~~ using the procedures of chapter 28-32. The notice may provide that the person may not perform any notarial acts during the pendency of the revocation proceeding. A notary whose commission is revoked may be denied a new commission for a period of up to six years following the date of revocation.

SECTION 2. AMENDMENT. Section 44-06-13.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-06-13.1. Prohibited acts - Penalty. A notary public may not notarize a signature on a document if:

1. The document was not first signed or re-signed in the presence of the notary public, in the case of a jurat, or in the case of a certificate of acknowledgment, was not acknowledged in the presence of the notary public.
2. The name of the notary public or the spouse of the notary public appears on the document as a party to the transaction.
3. The signature is that of the notary public or the spouse of the notary public.
4. The notary public uses a name or initial in notarizing the document other than as it appears on the notary's commission. However, such an act by a notary by itself does not affect the validity of the document.
5. The date of the jurat or certificate of acknowledgment is not the actual date the document is to be notarized.

A notary public who violates this section is guilty of an infraction and the notary public's commission must be revoked by the secretary of state using the procedure under chapter 28-32.

Approved March 22, 1999

Filed March 22, 1999

CHAPTER 402**HOUSE BILL NO. 1341**

(Representatives Kliniske, Delmore, Fairfield)
(Senators Heitkamp, W. Stenehjem, Wardner)

STATE EXPENSE REIMBURSEMENT

AN ACT to amend and reenact subsection 2 of section 44-08-04 of the North Dakota Century Code, relating to state officer and employee expense reimbursement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 44-08-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Expenses for travel within the state must be reimbursed at the following rates for each quarter of any twenty-four-hour period:
 - a. First quarter is from six a.m. to twelve noon and the sum must be four dollars. First quarter reimbursement may not be made if travel began after seven a.m.
 - b. Second quarter is from twelve noon to six p.m. and the sum must be six dollars.
 - c. Third quarter is from six p.m. to twelve midnight and the sum must be ten dollars.
 - d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed ~~thirty-nine~~ forty-two dollars plus any additional applicable state or local taxes.

Approved March 29, 1999
Filed March 29, 1999

CHAPTER 403

SENATE BILL NO. 2108

(Government and Veterans Affairs Committee)

(At the request of the Office of Management and Budget)

STATE LODGING EXPENSE PREPAYMENT

AN ACT to create and enact a new section to chapter 44-08 of the North Dakota Century Code, relating to prepayment and direct billing of out-of-state lodging expenses for state officers and employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-08 of the North Dakota Century Code is created and enacted as follows:

Prepayment and direct billing of out-of-state lodging expenses of state officers and employees. The office of management and budget shall seek to obtain sales tax exemptions for state employee travel lodging expense from all other states and the District of Columbia. If available from other states, the office of management and budget shall file exemption records, documents, or numbers for use by state agencies. Whenever any state agency, board, bureau, or institution makes out-of-state travel plans involving a lodging expense, the agency may contact the office of management and budget to determine if a sales tax exemption has been obtained from the destination state or states. If an exemption has been obtained, and if travel plans are sufficiently certain, the agency, board, bureau, or institution may obtain the required documentation from the office of management and budget and arrange with the out-of-state lodging provider to have the agency prepay the lodging expense or to have the lodging expense directly billed to the agency and obtain the benefit of the sales tax exemption.

Approved April 7, 1999

Filed April 8, 1999