

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1092

Introduced by

Industry, Business and Labor Committee

(At the request of the Attorney General)

1 A BILL for an Act to create and enact a new section to chapter 11-18, a new subsection to
2 section 23-02.1-28, and three new sections to chapter 44-04 of the North Dakota Century
3 Code, relating to redaction of social security numbers by the county recorder, the confidentiality
4 of social security numbers, the confidentiality of client files at the University of North Dakota
5 school of law, and the confidentiality of records of fire department and rural fire protection
6 districts; and to amend and reenact section 20.1-03-35, subsection 8 of section 23-02.1-19,
7 section 23-02.1-27, subsection 6 of section 41-09-73, section 43-50-04, subsection 2 of section
8 44-04-18.1, subsection 6 of section 44-04-20, and subsection 1 of section 44-04-21.1 of the
9 North Dakota Century Code, relating to confidentiality of social security numbers, notice of
10 emergency or special meetings, and release of certain information received by the attorney
11 general when preparing open records and meetings opinions.

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

13 **SECTION 1.** A new section to chapter 11-18 of the North Dakota Century Code is
14 created and enacted as follows:

15 **Filing or recording documents with recorder - Social security numbers.**

- 16 1. A document that includes a social security number may not be filed or recorded
17 with the recorder unless a law requires the social security number to be in the
18 document in order to be filed or recorded. A document that is required to contain a
19 social security number may be recorded in the real estate records with the social
20 security number redacted.
- 21 2. Notwithstanding any other provision of law, when a copy of a document that
22 includes a social security number is requested, the recorder is not required to
23 redact the social security number unless the document was filed or recorded with
24 the recorder after the effective date of this Act.

1 3. A document that must include a social security number under chapters 14-03 and
2 23-02.1 may be processed and recorded under those chapters; however, the
3 social security number is confidential and must be redacted before a copy or
4 certified copy may be provided to the public.

5 **SECTION 2. AMENDMENT.** Section 20.1-03-35 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **20.1-03-35. Social security number to be furnished.** The social security number of
8 an applicant for any license or permit issued under this chapter must be recorded on the
9 application unless the applicant is a foreign national to whom no social security number has
10 been issued. A social security number recorded under this section is ~~exempt from section~~
11 ~~44-04-18 and section 6 of article XI of the Constitution of North Dakota~~ confidential.

12 **SECTION 3. AMENDMENT.** Subsection 8 of section 23-02.1-19 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 8. Each death certificate must include the social security number of the decedent, if
15 the information is available. A social security number included on a death
16 certificate is ~~exempt from section 44-04-18 and section 6 of article XI of the~~
17 ~~Constitution of North Dakota~~ confidential.

18 **SECTION 4. AMENDMENT.** Section 23-02.1-27 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **23-02.1-27. Disclosure of records.** The state registrar, and local registrars, may
21 supervise and regulate physical access to vital records to protect vital records from loss,
22 mutilation, or destruction and to prevent improper disclosure of records that are confidential.
23 Information relating to the birth or fetal death of a child to a woman who was not married to the
24 child's father when the child was conceived or born may be disclosed only to the child's
25 guardian, to the ~~person~~ individual to whom the record relates if that ~~person~~ individual is at least
26 eighteen years old, to the parent of the child, or upon order of a court of competent jurisdiction.
27 Information in vital records indicating cause of death may not be disclosed except to a relative
28 or personal representative of the deceased, to the attorney or the agent of a relative or
29 personal representative of the deceased, to the child fatality review panel, or upon order of a
30 court of competent jurisdiction. An individual's social security number contained in vital records
31 may not be disclosed except to the individual to whom it pertains, that individual's lawful agent

1 or guardian, or by order of a court. Only a certified copy of a certificate or record may be
2 provided to the public.

3 **SECTION 5.** A new subsection to section 23-02.1-28 of the North Dakota Century
4 Code is created and enacted as follows:

5 A certified copy may not disclose an individual's social security number unless the
6 copy is being provided to the individual to whom it pertains, that individual's lawful
7 agent or guardian, or by order of a court.

8 **SECTION 6. AMENDMENT.** Subsection 6 of section 41-09-73 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 6. ~~Effective January 1, 2002, any~~ Any social security number or federal tax
11 identification number submitted under subdivision e of subsection 1 is not a public
12 record and may not be disclosed as part of any search under section 41-09-94 or
13 41-09-96 or as part of a copy of the record. A debtor's social security number or
14 federal tax identification number may be filed only in the filing office with the central
15 indexing system and may not be recorded in the real property records.

16 **SECTION 7. AMENDMENT.** Section 43-50-04 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-50-04. Social security number ~~not public record~~ - Confidential.** A social
19 security number provided under this chapter is ~~exempt from section 44-04-18 and section 6 of~~
20 ~~article XI of the Constitution of North Dakota~~ confidential.

21 **SECTION 8. AMENDMENT.** Subsection 2 of section 44-04-18.1 of the North Dakota
22 Century Code is amended and reenacted as follows:

23 2. Except as otherwise specifically provided by law, personal information regarding a
24 public employee contained in an employee's personnel record or given to the state
25 or a political subdivision by the employee in the course of employment is exempt.
26 As used in this section, "personal information" means a person's home address;
27 home telephone number; photograph; medical information; motor vehicle
28 operator's identification number; ~~social security number~~; payroll deduction
29 information; the name, address, telephone number, and date of birth, ~~and social~~
30 ~~security number of any dependent or emergency contact~~; any credit, debit, or

1 electronic fund transfer card number; and any account number at a bank or other
2 financial institution.

3 **SECTION 9.** A new section to chapter 44-04 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Social security numbers - Confidential.**

6 1. Social security numbers in the possession of a public entity are confidential.

7 However, social security numbers may be released as authorized in this section or
8 by other state or federal law.

9 2. A social security number may be released:

10 a. For purposes of participation in retirement or other employment benefits
11 programs; or

12 b. As authorized by the individual to whom the social security number is
13 assigned, that individual's lawful agent or guardian, or by order of a court.

14 **SECTION 10.** A new section to chapter 44-04 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Client files at the university of North Dakota school of law - Confidential.**

17 Information in the files of private clients receiving legal services through the clinical education
18 program of the university of North Dakota school of law is confidential unless the information
19 has been requested and is properly obtainable through applicable discovery rules.

20 **SECTION 11.** A new section to chapter 44-04 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Records of fire departments and rural fire protection districts confidential.**

23 1. a. An investigation record of a fire department or a rural fire protection district is
24 confidential until the investigation:

25 (1) Is closed and not referred for further criminal investigation or
26 prosecution; or

27 (2) The criminal investigation is no longer active under section 44-04-18.7.

28 b. This subsection does not restrict the release of the name and identifiable
29 biographical information of a child under section 12.1-35-03.

30 2. Standard operating procedures written for emergency response, prefire action
31 plans, plans of a building, pipeline, electrical system, or any other infrastructure

1 plan in the hands of a fire department or rural fire protection district are exempt
2 from section 44-04-18.

3 3. Individually identifiable health information obtained by a fire department or rural fire
4 protection district in the course of an investigation is confidential.

5 **SECTION 12. AMENDMENT.** Subsection 6 of section 44-04-20 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 6. In the event of emergency or special meetings of a governing body, the person
8 calling such a meeting shall also notify the public entity's official newspaper, if any,
9 and any representatives of the news media which have requested to be so notified
10 of such special or emergency meetings, of the time, place, date, and topics to be
11 considered at the same time as such governing body's members are notified.
12 Topics that may be considered at an emergency or special meeting are limited to
13 those included in the notice ~~to the media.~~

14 **SECTION 13. AMENDMENT.** Subsection 1 of section 44-04-21.1 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 1. Any interested person may request an attorney general's opinion to review a
17 written denial of a request for records under section 44-04-18, a denial of access
18 to a meeting under section 44-04-19, or other alleged violation of section 44-04-18,
19 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 by any public entity other than the
20 legislative assembly or any committee thereof. A request made under this section
21 must be made within thirty days of the alleged violation. In preparing an opinion
22 under this section, the attorney general has discretion to obtain and review a
23 recording made under section 44-04-19.2. The attorney general may request and
24 obtain information claimed to be exempt or confidential for the purpose of
25 determining whether the information is exempt or confidential. Any such
26 information may not be released by the attorney general and may be returned to
27 the provider of the information. The attorney general shall issue to the public entity
28 involved an opinion on the alleged violation unless the request is withdrawn by the
29 person requesting the opinion or a civil action has been filed involving the possible
30 violation. If the request pertains to a public entity as defined in subdivision c of
31 subsection 12 of section 44-04-17.1, the opinion must be issued to the public entity

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- 1 providing the public funds. In any opinion issued under this section, the attorney
- 2 general shall base the opinion on the facts given by the public entity.