

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1092  
(Industry, Business and Labor Committee)  
(At the request of the Attorney General)

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

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

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

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

1. A document that includes a social security number may not be filed or recorded with the recorder unless a law requires the social security number to be in the document in order to be filed or recorded. A document that is required to contain a social security number may be recorded in the real estate records with the social security number redacted.
2. Notwithstanding any other provision of law, when a copy of a document that includes a social security number is requested, the recorder is not required to redact the social security number unless the document was filed or recorded with the recorder after the effective date of this Act.
3. A document that must include a social security number under chapters 14-03 and 23-02.1 may be processed and recorded under those chapters; however, the social security number is confidential and must be redacted before a copy or certified copy may be provided to the public.

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

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

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

8. Each death certificate must include the social security number of the decedent, if the information is available. A social security number included on a death certificate is ~~exempt~~

~~from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota confidential.~~

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

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

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

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

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

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

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

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

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

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, telephone number, and 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.

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

**Social security numbers - Confidential.**

1. Social security numbers in the possession of a public entity are confidential. However, social security numbers may be released as authorized in this section or by other state or federal law.
2. A social security number may be released:
  - a. For purposes of participation in retirement or other employment benefits programs; or
  - b. As authorized by the individual to whom the social security number is assigned, that individual's lawful agent or guardian, or by order of a court.

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

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

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

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

1. a. An investigation record of a fire department or a rural fire protection district is confidential until the investigation:
  - (1) Is closed and not referred for further criminal investigation or prosecution; or
  - (2) The criminal investigation is no longer active under section 44-04-18.7.
- b. This subsection does not restrict the release of the name and identifiable biographical information of a child under section 12.1-35-03.
2. Standard operating procedures written for emergency response, prefire action plans, plans of a building, pipeline, electrical system, or any other infrastructure plan in the hands of a fire department or rural fire protection district are exempt from section 44-04-18.
3. Individually identifiable health information obtained by a fire department or rural fire protection district is confidential.

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

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

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

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

**SECTION 14. APPLICATION - NOTICE TO PUBLIC.** Section 9 of this Act does not apply to recorders until December 1, 2003. From the effective date of this Act until November 30, 2003, each recorder shall provide written notice of the relevant terms of this Act to any individual filing or recording a document if the document contains a social security or federal tax identification number. The notice must also state that a document containing a social security and federal tax identification number may not be filed or recorded after November 30, 2003.

**SECTION 15. EFFECTIVE DATE.** Sections 1 and 6 of this Act become effective on December 1, 2003.

**SECTION 16. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
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-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1092 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas          94              Nays          0              Absent        0

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas          46              Nays          0              Absent        1

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State