

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1083

Introduced by

Judiciary Committee

(At the request of the Labor Commissioner)

1 A BILL for an Act to amend and reenact sections 14-02.4-21, 14-02.5-22, and 14-02.5-46 of the
2 North Dakota Century Code, relating to confidential information obtained under the human
3 rights and housing discrimination laws.

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

5 **SECTION 1. AMENDMENT.** Section 14-02.4-21 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **14-02.4-21. Records exempt.** A complaint ~~received by~~ filed with the department
8 under this chapter is an open record. Information obtained during ~~any~~ an investigation
9 conducted by the department under this chapter is exempt from section 44-04-18 before the
10 institution of any judicial proceedings or administrative hearing relating to the complaint under
11 this chapter or before the administrative closure of a complaint by the department. The
12 department may disclose to the complainant or the respondent, or a representative of the
13 complainant or the respondent, information obtained during an investigation if ~~determined~~
14 deemed necessary by the department for securing an appropriate resolution of a complaint.
15 The department may disclose ~~to federal officials~~ information obtained ~~under this chapter~~ during
16 an investigation to a federal agency if necessary for the processing of complaints under an
17 agreement with the agency. ~~The department may not disclose anything said or done as part of~~
18 ~~the informal negotiation or conciliation efforts relating to a complaint under this chapter except~~
19 ~~to the federal equal employment opportunity commission as needed for proper processing and~~
20 ~~closure.~~ Individually identifiable health information obtained during an investigation may not be
21 disclosed by the department except to a federal agency if necessary for the processing of
22 complaints under an agreement with the agency. Statements made or actions taken during
23 conciliation efforts relating to a complaint under this chapter may not be disclosed by the
24 department, except to a federal agency if necessary for the processing of complaints under an

1 agreement with the agency, and may not be used as evidence in a subsequent proceeding
2 under this chapter without the written consent of the parties to the conciliation. A conciliation
3 agreement is an open record unless the complainant and respondent agree that it is not and
4 the department determines that disclosure is not necessary to further the purposes of this
5 chapter. Investigative working papers are exempt from section 44-04-18.

6 **SECTION 2. AMENDMENT.** Section 14-02.5-22 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **14-02.5-22. Conciliation.**

9 4- The department shall, during the period beginning with the filing of a complaint and
10 ending with the filing of a charge or a dismissal by the department, to the extent
11 feasible, engage in conciliation with respect to the complaint. A conciliation
12 agreement between a respondent and the complainant is subject to departmental
13 approval. A conciliation agreement may provide for binding arbitration or another
14 method of dispute resolution. Dispute resolution that results from a conciliation
15 agreement may authorize appropriate relief, including monetary relief.

16 2- ~~A conciliation agreement is public information unless the complainant and~~
17 ~~respondent agree that it is not and the department determines that disclosure is~~
18 ~~not necessary to further the purposes of this chapter. Statements made or actions~~
19 ~~taken in the conciliation may not be made public by the department or used as~~
20 ~~evidence in a subsequent proceeding under this chapter without the written~~
21 ~~consent of the parties to the conciliation.~~

22 **SECTION 3. AMENDMENT.** Section 14-02.5-46 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **14-02.5-46. Records exempt.** A complaint filed with the department under section
25 14-02.5-18 is an open record. Information obtained during an investigation conducted by the
26 department under this chapter is exempt from section 44-04-18 ~~prior to~~ before the institution of
27 any judicial proceedings or administrative hearing relating to the complaint under this chapter or
28 before the administrative closure of a complaint by the department. The commissioner
29 department may disclose to the complainant or the respondent, or representatives of the
30 complainant or respondent, information obtained under this section during an investigation if
31 deemed necessary by the commissioner department for securing an appropriate resolution of a

1 complaint. The department may disclose information obtained during an investigation to a
2 federal agency if necessary for the processing of complaints under an agreement with the
3 agency. Individually identifiable health information obtained during an investigation may not be
4 disclosed by the department except to a federal agency if necessary for the processing of
5 complaints under an agreement with the agency. Statements made or actions taken during
6 conciliation efforts relating to a complaint under this chapter may not be disclosed by the
7 department, except to a federal agency if necessary for the processing of complaints under an
8 agreement with the agency, and may not be used as evidence in a subsequent proceeding
9 under this chapter without the written consent of the parties to the conciliation. A conciliation
10 agreement is an open record unless the complainant and respondent agree that it is not and
11 the department determines that disclosure is not necessary to further the purposes of this
12 chapter. Investigative working papers are exempt from section 44-04-18.