

January 31, 2023
House Judiciary Committee
HB 1262
Rep. Lawrence Klemin, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities, in support of HB 1262. I am the deputy director and attorney for the North Dakota League of Cities.

HB 1262 is a simple bill and is intended to ensure individual's privacy in their private spaces. It is already in the Century Code that images taken in a private place, from body cams or similar devices of a law enforcement officers or firefighters, are exempt records under the North Dakota open records laws. As a reminder an exempt record is a record that the government entity has discretion on whether to release.

HB 1279 would extend that protection for all images taken in a private place, by body camera or other similar device, no matter who is controlling the device. In other words, if a representative of a public entity wears a body camera and takes images using a similar device in an individual's home, that image would be protected.

The reason this came up is that there is a national trend to have property assessors and building inspectors wear body cameras. A couple of cities looked into starting to have these employees wear body cameras and discovered that when going into an individual's home they would be creating a video record showing the inside of someone's home and there would not be protection under the law from having to disclose the record if requested. As a result, we worked on this bill to be proactive about protecting individual's privacy in their homes.

Please note that this language appears in the statute with the title "Criminal intelligence information and criminal investigative information - Nondisclosure - Record of information maintained." Under the provisions in the Century Code related to statutory interpretation, the title of a statute is not instructive as to what is in the statute. As such, I want to make it clear that the intent is that, under this bill, this exemption would apply to everyone. I did not want to move the section because everyone is already accustomed to where to find it.

In order to protect individual's privacy rights in their homes and other private places, the North Dakota League of Cities respectfully requests a "Do Pass" recommendation on HB 1262.

Stephanie