

Testimony for Hearing on HB1442
Eric J. Murphy, District 43

Thank you, Chairman Klemin and my honorable colleagues on the Judiciary Committee. For the record, my name is Eric James Murphy, representative from District 43, Grand Forks.

This bill will amend and reenact section 44-04-18.1 of North Dakota Century Code relating to prohibiting possession of exempt documents in a public employee's personnel file. While these exempt documents may be in possession of an individual during their official duties, for example in evaluation of an employee, the documents must be returned and electronic copies deleted.

The rationale is that possession of these exempt documents outside of the official duties of another individual is a violation of privacy and expected privacy for personnel files as delineated in 44-04-18.1.

The proposed penalty for possession of exempt personnel documents falls into two categories, dependent upon the number of documents in position. An infraction is imposed for each document up to ten documents, whereas a class B misdemeanor is assessed for possession of each document greater than ten documents. Note that I have attached an amendment to correct this language.

A second penalty is incurred for release of possessed exempt documents. Again, I am presenting an amendment for this section. Release of documents results in a proposed class A misdemeanor.

Personnel records must be protected from possession by and release by individuals not authorized to possess and release these exempt documents. Individuals must be curtailed from possessing exempt documents of public employees beyond their official duties. Release of these exempt documents may result in unintended consequences that impacting the individual.

Amendment:

Page 2. Lines 16 and 17 ~~(1) Each document unlawfully released if the individual releases ten or few documents; or~~

Page 2, line 18 ~~(2) Each document an individual unlawfully possesses if the individual possesses ten or more documents.~~

Page 2 line 16 insert: (1) Each document an individual unlawfully possesses if the individual possesses eleven or more documents.

Page 2, line 20 A class A misdemeanor for each document unlawfully released if the individual releases more than ten documents