

HOUSE BILL NO. 1185

Introduced by

Representatives Louser, Heilman, Henderson, D. Johnston, VanWinkle

Senators Castaneda, Paulson, Magrum

1 A BILL for an Act to amend and reenact sections 44-04-18.1 and 54-23.3-07.1 of the North
2 Dakota Century Code, relating to an exemption for information contained in personnel records
3 of public employees and records related to internal investigations by the department of
4 corrections and rehabilitation.

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

6 **SECTION 1. AMENDMENT.** Section 44-04-18.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **44-04-18.1. Confidential and exempt records - Public employee personal, medical,**
9 **and employee assistance records - Confidentiality - Personal information maintained by**
10 **state entities - Exempt Public employee personnel files - Information regarding**
11 **licensees - Public safety peer counseling information - Internal investigation records.**

12 1. ~~Any~~^A record of a public employee's medical treatment or use of an employee
13 assistance program is not to become part of that employee's personnel record and is
14 confidential and, except as otherwise authorized by law, may not be used or disclosed
15 without the written authorization of the employee. As used in this section, the term
16 "public employee" includes ~~any~~^{an} individual who has applied for employment, is
17 employed, or has been employed by a public entity.

18 2. Except as otherwise specifically provided by law, ~~personal information regarding a~~
19 ~~public employee~~ contained in an employee's personnel record or given to the state or
20 a political subdivision by the employee in the course of employment is exempt.
21 including:

22 a. Personal information. As used in this section, "personal information" means a
23 person's month and day of birth; home address; home telephone number or
24 personal cell phone number; photograph; medical information; motor vehicle

1 operator's identification number; public employee identification number; payroll
2 deduction information; the name, address, telephone number, and date of birth of
3 any dependent or emergency contact; any credit, debit, or electronic fund transfer
4 card number; and any account number at a bank or other financial institution.

5 b. Information regarding the type of leave taken by an employee ~~is exempt,~~
6 ~~although.~~ However, the amount of leave taken or accrued, and the dates of the
7 leave taken, is public record. Information regarding leave applied for but not yet
8 taken is exempt until the leave is taken.

9 ~~3.~~ ~~Nonconfidential information contained in a personnel record of an employee of a~~
10 ~~public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 is~~
11 ~~exempt.~~

12 4.3. Except as otherwise specifically provided by law, personal information regarding a
13 licensee maintained by an occupational or professional board, association, state
14 agency, or commission created by law is exempt. As used in this section, "licensee"
15 means an individual who has applied for, holds, or has held in the past an
16 occupational or professional license, certificate, credential, permit, or registration
17 issued by a state occupational or professional board, association, agency, or
18 commission.

19 5.4. Information relating directly to persons engaged in an organized public safety peer
20 counseling or a public safety peer debriefing is exempt.

21 6.5. Records relating to a public entity's internal investigation of a complaint against a
22 public entity or employee for misconduct are exempt until the investigation of the
23 complaint is complete, but no longer than seventy-five calendar days from the date of
24 the complaint.

25 **SECTION 2. AMENDMENT.** Section 54-23.3-07.1 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-23.3-07.1. Exemption of certain internal investigation records.**

28 Notwithstanding subsection 65 of section 44-04-18.1 and except as required under
29 subsection 1 of section 44-04-18.11, records relating to the department of corrections and
30 rehabilitation's internal investigations are exempt if:

Sixty-ninth
Legislative Assembly

- 1 1. The records could reasonably be used to identify victims, witnesses, employees
- 2 providing investigative information, or individuals providing information as correctional
- 3 confidential informants; and
- 4 2. Disclosure would cause a credible threat of violence or other harm.