



Date: February 5, 2025

To: House Committee of Government and Veterans Affairs

From: Sarah VanBerkum – Records Administrator Bismarck Police Department

RE: Testimony on House Bill 1306

Chairman Schauer, Vice-Chairman Satrom and Members of the Government & Veterans Affairs Committee:

I am writing to express my opposition to House Bill 1306 to amend and reenact subsection 2 of section 44-04-18 of the North Dakota Century Code, relating to fees assessed for open records requests.

First, per North Dakota Open Records Law, a requester is not required to identify themselves when making an open records request. How is an agency to document who has received their free report/redaction of said report for the year if the requester chooses not to identify themselves? Also, if the requester remains anonymous, how are we to know if they are a citizen of the state without violating North Dakota Open Records Law?

Second, public agencies throughout the state process hundreds and thousands of records requests each year for citizens of the state. The vast majority do not have dedicated personnel for open records rather they produce records as requested alongside their other assigned duties. We as an agency have no issue with transparency or releasing open records requested. As the current open records law exists with only the first hour of redaction and location free, it serves to keep most of the punitive, frivolous and overly burdensome requests to a minimum. We still get requests for wide ranging overly broad open records requests that the requestor ultimately does not pay for or follow up on but we spend significant time trying to locate records to get estimates of their cost. By instituting the first 40 hours be free it will be overly burdensome on the agencies and increase the punitive and frivolous requests. For this agency the vast majority of open records requests can be accomplished in the first hour of location and most redactions can be accomplished within the first hour.

What happens when a requester calls in and wants all reports, body cam and dash cam footage for themselves? With this proposal, we would be required to give the requester up to 40 hours of location and redaction time for free. Currently \$25 does not even fully cover the costs of fulfilling these requests. Increasing to 40 hours free would only increase the burden on the agency and the taxpayer. With all other duties and responsibilities employees currently have, this would place a significant burden on staff causing burn out and staff shortages. This change will likely cause the need for additional FTE staff.

Would this proposal be for people requesting reports or for entities requesting reports? If one person from a large entity (ie. Law Firms, Property Management Companies, etc.) requests 40 hours' worth of

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location and redaction time of records and another person from the same entity requests 40 hours' worth of location and redaction time of records, how would this work with the proposal?

I see this as a way for requesters to send already overworked, public employees on fishing expeditions for large demand requests. What is to say that a public employee redacts 40 hours' worth of documents for free for a requester who ultimately doesn't pick them up? Would that requester have met their free 40 hours per year, or would they have the ability to request an entirely different request for 40 free hours of redaction since they never received their original request? There would be no accountability for requesters that don't follow through with their bulk requests.

Finally, it would be nearly impossible to keep track of something of this magnitude each year. Between the large amount of requests and the fact that a requester is not required to identify themselves, tracking this would be impossible.

In conclusion, I do not see this proposal being of any benefit to State or Local agencies who process open records requests on a daily basis. Therefore, we request that this house bill Do Not Pass.

Thank You,



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