

January 15, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2083

Introduced by

Judiciary Committee

(At the request of the Highway Patrol)

1 A BILL ~~for an Act to create and enact a new of the North Dakota Century Code, relating to~~
2 ~~designating certain crash scene images as exempt records; and to amend and reenact~~
3 ~~subsection 9 of section 44-04-18.7 of the North Dakota Century Code, relating to exempt~~
4 ~~records related to criminal intelligence and investigation information.~~ for an Act to create and
5 enact a new subsection to section 44-04-18.7 of the North Dakota Century Code, relating to the
6 designation of a sensitive image as an exempt record; and to amend and reenact section
7 44-04-17.1 of the North Dakota Century Code, relating to the definition of a sensitive image.

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

9 ~~SECTION 1. AMENDMENT.~~ Subsection 9 of section 44-04-18.7 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 ~~9. An image is an exempt record if the image is taken with:~~

12 ~~a. With a body camera or similar device and which is taken in contains an image of:~~

13 ~~(1) Nude or partially denuded human figures as defined in section~~

14 ~~12.1-27.1-03.1;~~

15 ~~(2) An individual with serious bodily injury as defined in section 12.1-01-04; or~~

16 ~~(3) A deceased individual; or~~

17 ~~b. In a private place is an exempt record.~~

18 ~~SECTION 2.~~ A new section to chapter 44-04 of the North Dakota Century Code is created
19 and enacted as follows:

1 ~~Crash scene images -- Exempt.~~

2 ~~An image of an individual from a crash scene or incident is an exempt record if the image~~
3 ~~contains:~~

4 ~~a. Nude or partially denuded human figures as defined in section 12.1-27.1-03.1;~~

5 ~~b. An individual with serious bodily injury as defined in section 12.1-01-04;~~

6 ~~c. A deceased individual; or~~

7 ~~d. A minor.~~

8 **SECTION 1. AMENDMENT.** Section 44-04-17.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **44-04-17.1. Definitions.**

11 As used in this section through section 44-04-32:

- 12 1. "Closed meeting" means all or part of an exempt meeting that a public entity in its
13 discretion has not opened to the public, although any person necessary to carry out or
14 further the purposes of a closed meeting may be admitted.
- 15 2. "Closed record" means all or part of an exempt record that a public entity in its
16 discretion has not opened to the public.
- 17 3. "Confidential meeting" or "confidential record" means all or part of a record or meeting
18 that is either expressly declared confidential or is prohibited from being open to the
19 public.
- 20 4. "Executive session" means all or part of a meeting that is closed or confidential.
- 21 5. "Exempt meeting" or "exempt record" means all or part of a record or meeting that is
22 neither required by law to be open to the public, nor is confidential, but may be open in
23 the discretion of the public entity.
- 24 6. "Governing body" means the multimember body responsible for making a collective
25 decision on behalf of a public entity. "Governing body" also includes any group of
26 persons, regardless of membership, acting collectively pursuant to authority delegated
27 to that group by the governing body.
- 28 7. "Information technology resources" includes data processing hardware and software
29 or technology support services necessary to facilitate a response to a request for
30 electronic records.
- 31 8. "Law" includes federal statutes, applicable federal regulations, and state statutes.

- 1 9. a. "Meeting" means a formal or informal gathering or a work session, whether in
2 person or through any electronic means, of:
- 3 (1) A quorum of the members of the governing body of a public entity regarding
4 public business; or
- 5 (2) Less than a quorum of the members of the governing body of a public entity
6 regarding public business, if the members attending one or more of the
7 smaller gatherings collectively constitute a quorum and if the members hold
8 the gathering for the purpose of avoiding the requirements of section
9 44-04-19.
- 10 b. "Meeting" does not include:
- 11 (1) A chance or social gathering at which public business is not considered;
- 12 (2) Emergency operations during a disaster or emergency declared under
13 section 37-17.1-10 or an equivalent ordinance if a quorum of the members
14 of the governing body are present but are not discussing public business as
15 the full governing body or as a task force or working group;
- 16 (3) The attendance of members of a governing body at meetings of any
17 national, regional, or state association to which the public entity, the
18 governing body, or individual members belong;
- 19 (4) Training seminars at which no other public business is considered or
20 discussed; and
- 21 (5) Administration of examinations by a regulatory board when no other public
22 business is considered or discussed.
- 23 c. Notwithstanding subdivisions a and b, as applied to the legislative assembly,
24 "meeting" means any gathering subject to section 14 of article IV of the
25 Constitution of North Dakota.
- 26 d. Notwithstanding subdivisions a and b, "meeting" does not include any meeting of
27 the judicial branch or a committee or workgroup of the judicial branch. Such
28 meetings are governed by section 5 of article XI of the Constitution of North
29 Dakota.
- 30 10. "Organization or agency supported in whole or in part by public funds" means an
31 organization or agency in any form which has received public funds exceeding the fair

1 market value of any goods or services given in exchange for the public funds, whether
2 through grants, membership dues, fees, or any other payment. An exchange must be
3 conclusively presumed to be for fair market value, and does not constitute support by
4 public funds, when an organization or agency receives a benefit under any authorized
5 economic development program.

6 11. "Political subdivision" includes any county or city, regardless of the adoption of any
7 home rule charter, and any airport authority, township, school district, park district,
8 rural fire protection district, water resource district, solid waste management authority,
9 rural ambulance service district, irrigation district, hospital district, soil conservation
10 district, recreation service district, railroad authority, or district health unit.

11 12. "Public business" means all matters that relate or may foreseeably relate in any way
12 to:

13 a. The performance of the public entity's governmental functions, including any
14 matter over which the public entity has supervision, control, jurisdiction, or
15 advisory power; or

16 b. The public entity's use of public funds.

17 13. "Public entity" means all:

18 a. Public or governmental bodies, boards, bureaus, commissions, or agencies of
19 the state, including any entity created or recognized by the Constitution of North
20 Dakota, state statute, or executive order of the governor or any task force or
21 working group created by the individual in charge of a state agency or institution,
22 to exercise public authority or perform a governmental function;

23 b. Public or governmental bodies, boards, bureaus, commissions, or agencies of
24 any political subdivision of the state and any entity created or recognized by the
25 Constitution of North Dakota, state statute, executive order of the governor,
26 resolution, ordinance, rule, bylaw, or executive order of the chief executive
27 authority of a political subdivision of the state to exercise public authority or
28 perform a governmental function; and

29 c. Organizations or agencies supported in whole or in part by public funds, or
30 expending public funds.

- 1 14. "Public funds" means cash and other assets with more than minimal value received
2 from the state or any political subdivision of the state.
- 3 15. "Quorum" means one-half or more of the members of the governing body, or any
4 smaller number if sufficient for a governing body to transact business on behalf of the
5 public entity.
- 6 16. "Record" means recorded information of any kind, regardless of the physical form or
7 characteristic by which the information is stored, recorded, or reproduced, which is in
8 the possession or custody of a public entity or its agent and which has been received
9 or prepared for use in connection with public business or contains information relating
10 to public business. "Record" does not include unrecorded thought processes or mental
11 impressions, but does include preliminary drafts and working papers. "Record" also
12 does not include records in the possession of a court of this state.
- 13 17. "Sensitive image" means an image depicting an exposed intimate part, gruesome
14 injury, deceased individual, or a minor.
- 15 18. "Task force or working group" means a group of individuals who have been formally
16 appointed and delegated to meet as a group to assist, advise, or act on behalf of the
17 individual in charge of a state agency or institution when a majority of the members of
18 the group are not employees of the agency or institution.

19 **SECTION 2.** A new subsection to section 44-04-18.7 of the North Dakota Century Code is
20 created and enacted as follows:

21 Unless otherwise provided by law, a sensitive image as defined by section 44-04-17.1
22 is an exempt record.