

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2172
(Senators J. Lee, Dever, Lyson)
(Representatives DeKrey, Grande, Gruchalla)

AN ACT to amend and reenact subsection 6 of section 44-04-18 and section 44-04-18.3 of the North Dakota Century Code, relating to access to public records in arbitration proceedings and to exempting law enforcement work schedules from open records requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 44-04-18 of the North Dakota Century Code is amended and reenacted as follows:

6. Any request under this section for records in the possession of a public entity by a party to a criminal or civil action ~~or~~, adjudicative proceeding as defined in subsection 1 of section 28-32-01, or arbitration in which the public entity is a party, or by an agent of the party, must comply with applicable discovery rules or orders and be made to the attorney representing that entity in the criminal or civil action ~~or~~, adjudicative proceeding, or arbitration. The public entity may deny a request from a party or an agent of a party under this subsection if the request seeks records that are privileged under applicable discovery rules.

SECTION 2. AMENDMENT. Section 44-04-18.3 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.3. Records of juvenile court supervisors and probation officers and law enforcement and correctional employees - Law enforcement work schedules - Confidential informants.

1. Any telephone number and the home address of a juvenile court supervisor or probation officer, an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential. A record containing information relating to an employee of the department of corrections and rehabilitation may be disclosed to an appropriate authority under policy established by the department of corrections and rehabilitation.
2. Records or other information that would reveal the identity, or endanger the life or physical well-being, of an undercover law enforcement officer is confidential. For purposes of this subsection, an "undercover law enforcement officer" means a full-time, salaried employee of a local or state law enforcement agency who acts surreptitiously or poses as someone other than a law enforcement officer while engaging in the investigation of a violation of law.
3. Any record containing the work schedule of employees of a law enforcement agency is exempt.
4. A law enforcement officer or prosecutor, within the scope of the employment of the officer or prosecutor, may provide assurances of confidentiality to a person providing information regarding violations of the law. Any information that would identify or provide a means of identifying a confidential informant, if the identity of the informant is not otherwise publicly known, is confidential and may be disclosed only as permitted by law.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2172.

Senate Vote: Yeas 44 Nays 0 Absent 3

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State