

HOUSE BILL NO. 1316

Introduced by

Representatives Pyle, Becker, Ertelt, Hoverson, Johnston, Marschall

Senators Bekkedahl, Luick

1 A BILL for an Act to amend and reenact section 37-18-11 of the North Dakota Century Code,
2 relating to maintenance of records of veterans' and veterans' dependents.

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

4 **SECTION 1. AMENDMENT.** Section 37-18-11 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **37-18-11. Release of information and records - Confidential nature.**

7 All records and papers pertaining or relating to veterans ~~which are transmitted by the United~~
8 ~~States government to the department of veterans' affairs or veterans' eligible dependents~~ must
9 be kept and maintained by ~~said~~the department of veterans' affairs under the following provisions
10 and conditions:

- 11 1. All records and papers of the department ~~are to~~must be utilized in the manner to best
12 serve the public interest, but the veteran's right of privacy as to information pertaining
13 to the veteran's military or naval service and to confidential information contained in
14 the veteran's application for benefits will be respected.
- 15 2. All reports of investigation made by employees of the department or at the direction of
16 the department for official departmental purposes are for the use of the commissioner
17 and the commissioner's staff only. Materials and information which disclose the
18 investigative techniques of the department or the identity of confidential informants
19 and material received in confidence by representatives of the department will not be
20 released.
- 21 3. Records pertaining to any application for benefits, whether pending or adjudicated, ~~will~~
22 ~~bear~~be deemed confidential and no disclosure therefrom will may not be made disclosed
23 except in the circumstances and under the conditions set forth in this chapter, ~~and any~~

- 1 ~~person-making application. For purposes of this section, "applicant" means an~~
2 ~~individual applying for benefits must hereinafter be referred to as the applicant.~~
- 3 4. An applicant may not have access to official department records concerning the
4 applicant, but information from official records may be disclosed to an applicant or the
5 applicant's duly authorized representative as to matters concerning the applicant.
- 6 5. "Duly authorized representative" ~~is defined as means~~ any person authorized in writing
7 by the applicant to act for the applicant, or the applicant's legally constituted
8 representative if the applicant is incompetent or deceased. If for proper reason ~~no~~
9 ~~such~~ a representative has not been or will not be appointed, the applicant's spouse, an
10 adult child, or if the applicant is unmarried, either of the applicant's parents ~~shall be~~
11 recognized as the duly authorized representative of the applicant.
- 12 6. Medical information may be disclosed as follows:
- 13 a. Except as otherwise required by law, information contained in a veteran's medical
14 records on file ~~shall~~must be disclosed to the ~~resident~~veteran on request.
- 15 b. Information contained in medical records of ~~residents and beneficiaries~~veterans
16 or veterans' dependents pertaining to medical history, diagnosis, findings, or
17 treatment may be disclosed directly to physicians and hospitals for treatment,
18 payment, and health care operations, and as otherwise authorized by law. This
19 information is to be treated as confidential information. This information also may
20 be disclosed without the consent of the ~~resident~~veteran or the ~~resident's~~
21 ~~personal~~veteran's duly authorized representative when a request for the
22 information is received from the veterans' administration, the United States public
23 health service, the superintendent of a state hospital, a commissioner or head of
24 a state department of mental hygiene, or head of a state, county, or city health
25 department and the disclosure is required by law, or for the purpose of treatment,
26 payment, or health care operations.
- 27 7. Information contained in loan files may be made available to any party having an
28 interest in ~~such~~the loan transaction upon approval by the ~~director~~commissioner or
29 pursuant to rules and regulations ~~promulgated~~adopted by the ~~director~~commissioner.
- 30 8. Information contained in department files required for official purposes by any agency
31 of the United States government or by any agency of ~~the~~this state of ~~North Dakota~~, or

1 by any law enforcement or public welfare agency of any ~~North Dakota~~ county or
2 municipality of this state may be furnished in response to an official request, written or
3 oral, from ~~such~~the agency. The requesting agency must be asked to specify the
4 purpose for which ~~such~~the information is to be used.

5 9. Subject to the limitations of any other law, members of the legislative assembly may
6 be furnished ~~such~~the information contained in department files as may be requested
7 for official use.

8 10. A county veterans' service officer may be ~~permitted to~~ inspect records pertaining to
9 any application for benefits in which the officer's office may be directly involved upon
10 the condition that only ~~such~~the information contained ~~therein~~in the application as may
11 be properly disclosed ~~will~~must be disclosed by the officer only to the applicant or if the
12 applicant is incompetent, to the applicant's ~~legally constituted~~duly authorized
13 representative.

14 11. When records pertaining to any application for benefits are requested for use in any
15 judicial proceedings, ~~they will~~the records may be released only upon service of a
16 proper subpoena and upon the condition ~~that they will be~~the records will be returned
17 upon conclusion of ~~such~~the proceedings.

18 12. Addresses of applicants from department records ~~will~~may not be furnished, except as
19 provided in subsections 5 through 10. When an address is requested by a person to
20 whom it may not be furnished, the person making the request ~~will~~must be informed
21 ~~that~~ correspondence enclosed in an unsealed envelope showing no return address,
22 with the name of the addressee ~~thereon~~on the correspondence, and bearing sufficient
23 postage to cover mailing costs will be forwarded by the department. ~~At the time~~When
24 the correspondence is forwarded, the department's return address ~~will~~must be placed
25 on the envelope. If undelivered mail is returned to the department, the original sender
26 ~~will~~must be notified ~~thereof~~, ~~but~~and the envelope ~~will~~must be retained by the
27 department. ~~In no event will~~The department may not forward letters ~~be forwarded~~
28 for the purposes of debt collection, canvassing, or harassment.

29 13. Separation documents evidencing service in the armed forces of the United States ~~will~~
30 ~~be considered~~and information extracted from a separation document by the United
31 States department of defense are confidential and privileged, anything contained in

1 subsections 4 through 10 notwithstanding. Examination of ~~such~~those records ~~will be~~is
2 limited to authorized employees of the department and information entered thereon
3 ~~will~~within those records may be disclosed only to interested governmental agencies for
4 the purpose of assisting veterans ~~and their~~or veterans' eligible dependents to obtain
5 the rights and benefits to which ~~they~~the veterans or veterans' eligible dependents may
6 be entitled.