

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2232

Introduced by

Senators Luick, Larson

Representative Strinden

1 A BILL for an Act to create and enact a new subsection to section 44-04-18.7 of the North
2 Dakota Century Code, relating to exempting crime scene images of minors; and to amend and
3 reenact section 44-04-06, subsection 5 of section 44-04-19.1, subsection 4 of section 44-04-20,
4 and subsection 1 of section 44-04-21.1 of the North Dakota Century Code, relating to law
5 violations and open record and open meeting laws.

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

7 **SECTION 1. AMENDMENT.** Section 44-04-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **44-04-06. Peace officers to report law violations.**

10 The state's attorney, assistant state's attorney, sheriff, deputy sheriff, or peace officer of any
11 county, township, city in this state, having any evidence, knowledge, or notice of any violation of
12 any liquor, gambling, cigarette, snuff, pool hall, bawdyhouse, prostitution, white slave, or
13 habit-forming drug laws of North Dakota shall investigate and seek evidence of the violation and
14 the names of witnesses by whom the violation may be proved. ~~Any~~A peace officer shall report
15 the information to the state's attorney of the county in which the violation occurs and shall assist
16 the state's attorney in the prosecution of the violators of said laws.

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

19 Unless otherwise provided by law, descriptions of crime scene images that include a
20 minor or a minor victim or parts of a record containing such descriptions are exempt.

21 **SECTION 3. AMENDMENT.** Subsection 5 of section 44-04-19.1 of the North Dakota
22 Century Code is amended and reenacted as follows:

23 5. "Attorney consultation" means any discussion between the members of a governing
24 body and its attorney in instances in which the governing body seeks or receives the

1 attorney's advice regarding and in anticipation of reasonably predictable or pending
2 civil or criminal litigation or adversarial administrative proceedings or to receive its
3 attorney's advice and guidance on the legal risks, strengths, and weaknesses of an
4 action of a public entity which, if held in public, would have an adverse fiscal effect on
5 the entity. All other discussions beyond the attorney's advice and guidance must be
6 made in the open, unless otherwise provided by law. All statements made by a
7 participant or between participants during an executive session held for the purpose of
8 attorney consultation are exempt if the statements relate to the subject for which
9 attorney consultation was established. Mere presence or participation of an attorney at
10 a meeting is not sufficient to constitute attorney consultation.

11 **SECTION 4. AMENDMENT.** Subsection 4 of section 44-04-20 of the North Dakota Century
12 Code is amended and reenacted as follows:

- 13 4. The notice required in this section must be posted at the principal office of the
14 governing body holding the meeting, if such exists, and at the location of the meeting
15 on the day of the meeting. In addition, unless all the information contained in the
16 notice was previously filed with the appropriate office under subsection 3, the notice
17 must be filed in the office of the secretary of state for state-level bodies or for public
18 entities defined in subdivision c of subsection 13 of section 44-04-17.1, the city auditor
19 or designee of the city for city-level bodies, the county auditor or designee of the
20 county for all other bodies, ~~or~~ if the public entity has a website, notice also must be
21 posted on the public entity's website. This subsection does not apply to meetings of
22 the legislative assembly or any committee thereof.

23 **SECTION 5. AMENDMENT.** Subsection 1 of section 44-04-21.1 of the North Dakota
24 Century Code is amended and reenacted as follows:

- 25 1. Any interested person may request an attorney general's opinion to review a written
26 denial of a request for records under section 44-04-18, a denial of access to a meeting
27 under section 44-04-19, or other alleged violation of section 44-04-18, 44-04-19,
28 44-04-19.2, 44-04-20, or 44-04-21 by any public entity other than the legislative
29 assembly or any committee thereof. A request made under this section must be made
30 within thirty days of the alleged violation, except that a request based on allegations
31 that a meeting occurred without the notice required by section 44-04-20, must be

1 made within ninety days of the alleged violation. In preparing an opinion under this
2 section, the attorney general has discretion to obtain and review a recording made
3 under section 44-04-19.2. The attorney general may request and obtain information
4 claimed to be exempt or confidential for the purpose of determining whether the
5 information is exempt or confidential. Any such information may not be released by the
6 attorney general and may be returned to the provider of the information. The attorney
7 general shall issue to the public entity involved an opinion on the alleged violation,
8 which may be a summary opinion, unless the request is withdrawn by the person
9 requesting the opinion or a civil action has been filed involving the possible violation.
10 The attorney general may decline to issue an opinion if the person requesting the
11 opinion has made more than one request within the last thirty days or more than five
12 requests for opinions in twelve months. If the request pertains to a public entity as
13 defined in subdivision c of subsection 13 of section 44-04-17.1, the opinion must be
14 issued to the public entity providing the public funds. In any opinion issued under this
15 section, the attorney general shall base the opinion on the facts given by the public
16 entity.