

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1434
(Representatives Beltz, Bosch, Dobervich, Stemen, Vigesaa, Weisz)
(Senators Dever, Lee, Sickler)

AN ACT to amend and reenact section 50-24.8-12 of the North Dakota Century Code, relating to investigative demands and administrative subpoenas of the Medicaid fraud control unit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.8-12 of the North Dakota Century Code is amended and reenacted as follows:

50-24.8-12. ~~Civil investigative~~Investigative demands and administrative subpoenas - Failure to comply - Confidentiality.

1. If the attorney general, or a designee, has reason to believe a person may be in possession, custody, or control of documentary material or information relevant to an investigation under this chapter, the attorney general, or a designee, may, before commencing a ~~civil proceeding~~ under section 50-24.8-04 issue in writing and cause to be served upon the person, ~~a civil~~ investigative demand or administrative subpoena requiring the person to, under oath:
 - a. Produce the documentary material for inspection and copying, including exempt and confidential records;
 - b. Answer in writing written interrogatories with respect to the documentary material or information;
 - c. Give oral testimony concerning the subject matter of the investigation, including any documentary material or information; or
 - d. Furnish any combination of the material, answers, or testimony.
2. ~~If a civil investigative demand or subpoena is an express demand for product of discovery, the attorney general or a designee shall cause to be served, a copy of such demand upon the person from which the discovery was obtained and shall notify the person to which such demand is issued of the date on which the copy was served.~~
3. If a person objects to or otherwise fails to comply with a ~~civil~~ investigative demand or administrative subpoena served upon that person under subsection 1, the attorney general may file in the district court a petition for an order to enforce the demand or subpoena. If the court finds the demand or subpoena is proper, the court shall order the person to comply with the demand or subpoena and may grant such injunctive or other relief as may be required until the person complies with the demand or subpoena. Notice of hearing on the petition and a copy of the petition must be served upon the person that may appear in opposition to the petition. If the attorney general prevails in an action brought under this subsection, the court shall award to the attorney general reasonable attorney's fees, costs, and expenses incurred in bringing the action.
- 4.3. Any testimony taken or material produced under this section must be kept confidential by the attorney general before bringing an action against a person under this chapter for the violation under investigation, unless ~~confidentiality~~:
 - a. Confidentiality is waived by the person being investigated and the person that testified, answered interrogatories, or produced material, ~~or disclosure~~;

- b. Disclosure is authorized by the court;
- c. Disclosure is made to other law enforcement agencies; or
- d. Disclosure is made to non-law enforcement investigative partners with which the attorney general deems necessary to collaborate to complete the investigation.

~~5. Information obtained by the attorney general or designee may be shared with a person that initiated the action if the attorney general or designee determine it is necessary as part of any investigation under this chapter and the person agrees to comply with the confidentiality provisions provided in subsection 4, and unless otherwise provided by state or federal law.~~

~~6.4. Disclosure pursuant to this section is not a violation of section 12.1-13-01.~~

5. An active investigation record of the Medicaid fraud control unit is an exempt record unless the investigation is closed and not referred for further investigation or adjudication.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1434.

House Vote: Yeas 89 Nays 0 Absent 5

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State