

**HOUSE BILL NO. 1442**

Introduced by

Representatives Murphy, Christensen, Cory, Kempenich, Rios, Satrom

1 A BILL for an Act to amend and reenact section 44-04-18.1 of the North Dakota Century Code,  
2 relating to prohibiting possession of public employee personnel documents; and to provide a  
3 penalty.

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

5 **SECTION 1. AMENDMENT.** Section 44-04-18.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **44-04-18.1. Public employee personal, medical, and employee assistance records -**  
8 **Confidentiality - Personal information maintained by state entities - Exempt - Penalty.**

- 9 1. Any record of a public employee's medical treatment or use of an employee  
10 assistance program is not to become part of that employee's personnel record and is  
11 confidential and, except as otherwise authorized by law, may not be used or disclosed  
12 without the written authorization of the employee. As used in this section, the term  
13 "public employee" includes any individual who has applied for employment, is  
14 employed, or has been employed by a public entity.
- 15 2. Except as otherwise specifically provided by law, personal information regarding a  
16 public employee contained in an employee's personnel record or given to the state or  
17 a political subdivision by the employee in the course of employment is exempt. As  
18 used in this section, "personal information" means a person's month and day of birth;  
19 home address; home telephone number or personal cell phone number; photograph;  
20 medical information; motor vehicle operator's identification number; public employee  
21 identification number; payroll deduction information; the name, address, telephone  
22 number, and date of birth of any dependent or emergency contact; any credit, debit, or  
23 electronic fund transfer card number; and any account number at a bank or other  
24 financial institution. Information regarding the type of leave taken by an employee is

1 exempt, although the amount of leave taken or accrued, and the dates of the leave  
2 taken, is public record. Information regarding leave applied for but not yet taken is  
3 exempt until the leave is taken.

4 3. Nonconfidential information contained in a personnel record of an employee of a  
5 public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 is  
6 exempt.

7 4. An exempt record contained in a personnel record of an employee of a public entity  
8 may be released only under subsection 2 of section 44-04-18 unless the record is  
9 required to be released to another public employee for official duties. A public  
10 employee who possesses an exempt record of another public employee for official  
11 duties only may possess the exempt record until the official duties are completed. An  
12 individual violating this subsection is guilty of:

13 a. An infraction for each document an individual unlawfully possesses if the  
14 individual possesses ten or fewer documents.

15 b. A class B misdemeanor for:

16 (1) Each document unlawfully released if the individual releases ten or fewer  
17 documents; or

18 (2) Each document an individual unlawfully possesses if the individual  
19 possesses ten or more documents.

20 c. A class A misdemeanor for each document unlawfully released if the individual  
21 releases more than ten documents.

22 5. Except as otherwise specifically provided by law, personal information regarding a  
23 licensee maintained by an occupational or professional board, association, state  
24 agency, or commission created by law is exempt. As used in this section, "licensee"  
25 means an individual who has applied for, holds, or has held in the past an  
26 occupational or professional license, certificate, credential, permit, or registration  
27 issued by a state occupational or professional board, association, agency, or  
28 commission.

29 ~~5-6.~~ Information relating directly to persons engaged in an organized public safety peer  
30 counseling or a public safety peer debriefing is exempt.

Sixty-eighth  
Legislative Assembly

- 1     ~~6.7.~~   Records relating to a public entity's internal investigation of a complaint against a
- 2             public entity or employee for misconduct are exempt until the investigation of the
- 3             complaint is complete, but no longer than seventy-five calendar days from the date of
- 4             the complaint.