

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1359

Introduced by

Representatives Dorso, Clark

1 A BILL for an Act to amend and reenact sections 34-11.1-04.1, 44-04-09, and 44-04-10 of the  
2 North Dakota Century Code, relating to the state nepotism law.

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

4 **SECTION 1. AMENDMENT.** Section 34-11.1-04.1 of the North Dakota Century Code  
5 is amended and reenacted as follows:

6 **34-11.1-04.1. Discrimination on basis of marital status in state employment**

7 **prohibited - Exception.** Each state employee is, if otherwise qualified, entitled to work with  
8 that state employee's spouse. A state agency may not discriminate against an employee or an  
9 applicant for employment, with respect to working conditions, work place assignment, or other  
10 privileges of employment, merely because the spouse of that employee or applicant is also an  
11 employee of that state agency. ~~However, the prohibition does not apply to employment of the~~  
12 ~~spouse of a person who has the power to hire or fire, or to make evaluations of performance,~~  
13 ~~with respect to the position involved~~ Compliance with section 44-04-09 is not discrimination  
14 under this section.

15 **SECTION 2. AMENDMENT.** Section 44-04-09 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **44-04-09. Nepotism.** ~~No head of any executive or administrative department, either~~  
18 ~~elective or appointive, of this~~ A state official or state employee, in the exercise of that official's  
19 or employee's duties, may appoint his wife or her husband, as the case may be not serve in a  
20 supervisory capacity over, or enter a personal service contract with, that official's or employee's  
21 parent by birth or adoption, spouse, son, or daughter by birth or adoption, stepchild, brother, or  
22 sister, to any position under the control or direction of said head of such department by whole  
23 or half blood or by adoption, brother-in-law or sister-in-law, or son-in-law or daughter-in-law. As  
24 used in this section, "supervisory capacity" means the authority to appoint, employ, hire,

1 assign, transfer, promote, evaluate, reward, discipline, demote, or terminate. As used in this  
2 section, "evaluate" does not include evaluations by peers or subordinates. This section does  
3 not apply to an employment relationship or contract entered before the effective date of this  
4 Act; nor to any employment relationship or contract entered before the state official or  
5 employee assumed the supervisory capacity; nor to any temporary work arrangement  
6 necessary to meet a critical and urgent agency need.

7 **SECTION 3. AMENDMENT.** Section 44-04-10 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **44-04-10. Violation of provisions against nepotism - Penalty.** Any moneys paid  
10 out, in violation of section 44-04-09, must be deducted from the salary of the ~~head of the~~  
11 ~~department~~ hiring or contracting state official or state employee.