

HOUSE BILL NO. 1036

Introduced by

Legislative Council

(Judicial Process Committee)

1 A BILL for an Act to amend and reenact sections 4-18.1-14, 14-07.1-18, and 23-20.1-10,
2 subsection 5 of section 26.1-10-11, section 31-13-09, subsection 4 of section 43-15-42.2, and
3 sections 47-30.1-30.1, 50-06-15, 50-19-15, and 50-25.1-14 of the North Dakota Century Code,
4 relating to the release of confidential information; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 4-18.1-14 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **4-18.1-14. Entry, inspection, and investigation.** Authorized representatives of the
9 board have access to, and may enter at all reasonable hours, all places of business operated
10 by licensees where raw milk, milk products, or frozen dairy products are produced, stored,
11 processed, manufactured, or sold, or where the licensee maintains books, papers, accounts,
12 records, or other documents related to such activities. The board may subpoena, and any of its
13 authorized representatives may inspect and make copies of, any of such books, papers,
14 records, accounts, or documents and audit the same, all for the purpose of determining whether
15 or not the provisions of this chapter and of any rules and stabilization plans issued by the board
16 are being complied with.

17 The board may subpoena, and any of its authorized representatives may inspect, audit,
18 and make copies of, relevant books, papers, records, accounts, or other documents of persons
19 doing business with licensees.

20 Any information gained by the board or its representatives through such entry,
21 inspection, or investigation must be treated as confidential by the board and its representatives
22 and must be used only for the administration of this chapter; provided, that such persons may
23 divulge such information when called upon to testify in any duly noticed proceeding before the
24 board or in any court proceeding wherein the board is a party or to the agriculture commissioner

1 or the dairy commissioner for the purpose of determining whether a licensee's financial
2 condition is such as to reasonably assure prompt payment to the dairy farmers from whom milk
3 or cream is purchased. Nothing contained in this chapter prevents the use of any information
4 procured by the board or its representatives in the compiling and dissemination of general
5 statistical data, containing information procured from a number of licensees, and compiled in
6 such manner as not to reveal individual information for any licensee. Any person who divulges
7 confidential information in violation of this section to any person, other than members and
8 employees of the board, is ~~guilty of a class A misdemeanor~~ subject to the penalty provided in
9 section 12.1-13-01.

10 The board may also subpoena and take the testimony under oath of persons believed
11 by the board to have information needed by it in administering and enforcing this chapter.

12 **SECTION 2. AMENDMENT.** Section 14-07.1-18 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **14-07.1-18. Domestic violence or sexual assault program records - Confidentiality**
15 **- Exceptions - Penalty.**

- 16 1. All agents, employees, and volunteers participating in a domestic violence or
17 sexual assault program shall maintain the confidentiality of the:
- 18 a. Address, telephone number, and other identifying information of a shelter,
19 safe home, and place of emergency safe housing;
 - 20 b. Name, address, telephone number, personally identifying information, and
21 case file or history of any client receiving services from a domestic violence or
22 sexual assault program; and
 - 23 c. Name, address, telephone number, and other identifying information of an
24 agent, employee, or volunteer providing services under a domestic violence or
25 sexual assault program.
- 26 2. The information described in subsection 1 is not subject to section 44-04-18 and
27 may not be disclosed unless:
- 28 a. A client consents to the release of information that relates only to that client or
29 the client's dependents;
 - 30 b. The agent, employee, or volunteer operating a domestic violence or sexual
31 assault program determines the disclosure of the information necessary for

- 1 the efficient and safe operation of a domestic violence or sexual assault
2 program; or for the protection of the safety of an employee, agent, volunteer,
3 or client of a domestic violence or sexual assault program; or for the
4 protection of a third party reasonably thought to be in need of protection;
- 5 c. A court of competent jurisdiction orders the disclosure after an in camera
6 review and a written finding by the court that the information directly and
7 specifically relates to a determination of child abuse and neglect under
8 chapter 50-25.1 or termination of parental rights under sections 14-15-19,
9 27-20-44, 27-20-45, 27-20-46, 27-20-47, and 27-20-48; or
- 10 d. An agent, employee, or volunteer working with a domestic violence or sexual
11 assault program has knowledge or reasonable cause to suspect a child has
12 been abused or neglected as defined by section 50-25.1-02.
- 13 3. Any person who ~~violates~~ releases confidential information in violation of this
14 section is guilty of an infraction subject to the penalty provided in section
15 12.1-13-01.

16 **SECTION 3. AMENDMENT.** Section 23-20.1-10 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **23-20.1-10. Penalties.** Any person who violates any provision of this chapter or any
19 license condition or limitation implemented by this chapter is subject to a civil penalty of not
20 more than ten thousand dollars per day of violation.

21 In addition to any other penalty or remedy pursuant to this chapter, any person who
22 knowingly violates any of the provisions of this chapter, or rules or orders of the department in
23 effect pursuant thereto, is guilty of a class A misdemeanor. Any person who releases
24 information that has been deemed confidential under section 23-20.1-09.1 is subject to the
25 penalty provided in section 12.1-13-01.

26 **SECTION 4. AMENDMENT.** Subsection 5 of section 26.1-10-11 of the North Dakota
27 Century Code is amended and reenacted as follows:

- 28 5. Any officer, director, or employee of an insurance holding company system, who
29 willfully and knowingly subscribes to or makes or causes to be made any false
30 statements or false reports or false filings with the intent to deceive the
31 commissioner in the performance of the commissioner's duties under this chapter,

1 may have criminal proceedings instituted against them. ~~Any~~ Except for a violation
2 of section 26.1-10-07 for which the penalty in section 12.1-13-01 applies, any
3 individual who violates this chapter is guilty of a class A misdemeanor. Any fines
4 imposed must be paid by the officer, director, or employee in the person's
5 individual capacity.

6 **SECTION 5. AMENDMENT.** Section 31-13-09 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **31-13-09. DNA profiles to be available to law enforcement - Penalty.** Upon
9 payment of a reasonable fee established by the laboratory, the laboratory shall provide, upon
10 the request of appropriate law enforcement agencies for use for official purposes, an updated
11 list of names of individuals whose DNA profiles are stored in the data base at the laboratory.
12 Any person who disseminates, receives, or otherwise uses or attempts to use information in the
13 data base, knowing that the dissemination, receipt, or use is for a purpose other than as
14 authorized by law, is ~~guilty of a class A misdemeanor~~ subject to the penalty provided in section
15 12.1-13-01.

16 **SECTION 6. AMENDMENT.** Subsection 4 of section 43-15-42.2 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 4. a. Notwithstanding the provisions of section 44-04-18, the records and
19 proceedings of the board, compiled in conjunction with an impaired
20 pharmacist peer review committee, are confidential and are not to be
21 considered public records or open records unless the affected pharmacist so
22 requests; provided, however, the board may disclose this confidential
23 information only if any of the following apply:
24 a- (1) In a disciplinary hearing before the board or in a subsequent trial or
25 appeal of a board action or order.
26 b- (2) To the pharmacist licensing or disciplinary authorities of other
27 jurisdictions.
28 e- (3) Under an order of a court of competent jurisdiction.
29 b. Any person who releases confidential information in violation of this
30 subsection is subject to the penalty provided in section 12.1-13-01.

1 **SECTION 7. AMENDMENT.** Section 47-30.1-30.1 of the North Dakota Century Code
2 is amended and reenacted as follows:

3 **47-30.1-30.1. Confidentiality of audit records - ~~Civil penalty~~ Penalty.**

- 4 1. Documentation and working papers obtained or compiled by the administrator, or
5 the administrator's agents, employees, or designated representatives, in the
6 course of conducting an audit for unclaimed property under chapter 47-30.1 are
7 confidential and are not public records under section 44-04-18 and section 5 of
8 article XI of the Constitution of North Dakota, except in the following
9 circumstances:
- 10 a. When used by the administrator to bring an action to collect unclaimed
11 property, to collect any unpaid interest due on unclaimed property, or to
12 otherwise enforce chapter 47-30.1;
- 13 b. When used in joint audits conducted with or pursuant to agreements with
14 other states, the federal government, or other governmental entities;
- 15 c. Pursuant to subpoena or court order; or
- 16 d. By written consent of the person, institution, business, or entity that was
17 audited.
- 18 2. The administrator's final, completed audit reports are records open to the public.
19 The final reports may not contain confidential documentation or working papers
20 unless one of the exceptions provided under subsection 1 applies.
- 21 3. a. The administrator or any state employee conducting an audit on the
22 administrator's behalf may not disclose confidential information when auditing
23 financial institutions, except as required to perform duties required under this
24 chapter. Any other person or entity performing an audit for unclaimed
25 property may not disclose confidential information concerning a financial
26 institution or other holder to any person or other entity except the
27 administrator.
- 28 b. ~~Any~~ In addition to the penalty provided in section 12.1-13-01, any person or
29 entity, other than the administrator or any state employee conducting an audit
30 on the administrator's behalf, who intentionally discloses information in
31 violation of this section is liable to the person or entity that was audited in an

1 amount equal to the greater of one thousand dollars or the actual damages
2 caused by the disclosure of the information. Any person who discloses
3 information in good faith reliance on this section is not liable for that
4 disclosure.

5 4. The administrator and any state employee conducting an audit on the
6 administrator's behalf are exempt from chapter 6-08.1.

7 **SECTION 8. AMENDMENT.** Section 50-06-15 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-06-15. Disclosure of information contained in records - Penalty.** ~~It is a class A~~
10 ~~misdemeanor for any~~ Any person to disclose, authorize, or knowingly permit, participate in, or
11 ~~acquire~~ see who discloses, authorizes or knowingly permits, or participates in the disclosure of
12 any records or information concerning persons applying for or receiving assistance or services
13 under any program administered by or under the supervision and direction of the department
14 when such information is derived directly or indirectly from records, papers, files, or
15 communications received in the course of the administration of any such program or in the
16 performance of official duties, except that such records and information may be used in the
17 administration of any such program and as specifically authorized by the rules and regulations
18 of the department, is subject to the penalty provided in section 12.1-13-01.

19 **SECTION 9. AMENDMENT.** Section 50-19-15 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **50-19-15. Penalty.** ~~Every~~ Except for a violation of section 50-19-10 for which the
22 penalty in section 12.1-13-01 applies, any person who violates any of the provisions of this
23 chapter is guilty of a class B misdemeanor.

24 **SECTION 10. AMENDMENT.** Section 50-25.1-14 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **50-25.1-14. Unauthorized disclosure of reports - Penalty.** Any person who permits
27 or encourages the unauthorized disclosure of reports made or confidential information obtained
28 under the provisions of this chapter is ~~guilty of a class B misdemeanor~~ subject to the penalty
29 provided in section 12.1-13-01.