

CHAPTER 14-02.5 HOUSING DISCRIMINATION

14-02.5-01. Definitions.

The definitions in section 14-02.4-02 may be used to supplement the definitions in this chapter. In this chapter, unless the context otherwise requires:

1. "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.
2. "Complainant" means a person, including the department, that files a complaint under section 14-02.5-18.
3. "Conciliation" means the informal negotiations among an aggrieved person, the respondent, and the department to resolve issues raised by a complaint or by the investigation of the complaint.
4. "Conciliation agreement" means a written agreement resolving the issues in conciliation.
5. "Department" means the department of labor and human rights.
6. "Disability" means a mental or physical impairment that substantially limits at least one major life activity, a record of this impairment, or being regarded as having this impairment. The term does not include current illegal use or addiction to any drug or illegal or federally controlled substance and does not apply to an individual because of an individual's sexual orientation or because that individual is a transvestite.
7. "Discriminatory housing practice" means an act prohibited by sections 14-02.5-02 through 14-02.5-08 or conduct that is an offense under section 14-02.5-45.
8. " Dwelling" means any structure or part of a structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families or vacant land that is offered for sale or lease for the construction or location of a structure or part of a structure as previously described.
9. "Familial status" means one or more minors being domiciled with a parent or another person having legal custody of the minor or minors; or the designee of the parent or other person having such custody with the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any minor.
10. "Family" includes a single individual.
11. "Respondent" means a person accused of a violation of this chapter in a complaint of discriminatory housing practice or a person identified as an additional or substitute respondent under section 14-02.5-21 or an agent of an additional or substitute respondent.
12. "To rent" includes to lease, sublease, or let, or to grant in any other manner, for a consideration, the right to occupy premises not owned by the occupant.

14-02.5-02. Sale or rental.

1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
3. An applicant for or tenant of housing that is part of a state housing program may not be denied admission to, denied assistance under, terminated from participating in, or evicted from housing on the basis that the applicant or tenant is or has been a victim of

domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

4. This section does not prohibit discrimination against an individual because the individual has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.
5. Nothing in this chapter prevents a person from refusing to rent a dwelling to two unrelated individuals of opposite gender who are not married to each other.

14-02.5-03. Publication.

A person may not make, print, or publish or effect the making, printing, or publishing of a notice, statement, or advertisement that is about the sale or rental of a dwelling and that indicates any preference, limitation, or discrimination or the intention to make a preference, limitation, or discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

14-02.5-04. Inspection.

A person may not represent to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection.

14-02.5-05. Entry into neighborhood.

A person may not, for profit, induce or attempt to induce another to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of an individual of a particular race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

14-02.5-06. Disability.

1. A person may not discriminate in the sale or rental of, or make unavailable or deny, a dwelling to any buyer or renter because of a disability of the buyer or renter; of an individual residing in or intending to reside in that dwelling after it is sold, rented, or made available; or of any individual associated with the buyer or renter.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of that individual; of an individual residing in or intending to reside in that dwelling after it is sold, rented, or made available; or of any individual associated with that individual.
3. In this section, discrimination includes:
 - a. A refusal to permit, at the expense of the individual having a disability, a reasonable modification of existing premises occupied or to be occupied by the individual if the modification may be necessary to afford the individual full enjoyment of the premises, except that, in the case of a rental, the landlord may condition, when it is reasonable to do so, permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - b. A refusal to make a reasonable accommodation in rules, policies, practices, or services if the accommodation may be necessary to afford the individual equal opportunity to use and enjoy a dwelling; or
 - c. The failure to design and construct a covered multifamily dwelling in a manner that allows the public use and common use portions of the dwellings to be readily accessible to and usable by individuals having a disability; that allows all doors designed to allow passage into and within all premises within the dwellings to be sufficiently wide to allow passage by an individual who has a disability and who is in a wheelchair; and that provides all premises within the dwellings contain the following features of adaptive design:

- (1) An accessible route into and throughout the dwelling;
 - (2) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (3) Reinforcements in bathroom walls to allow later installation of grab bars; and
 - (4) Kitchens and bathrooms that are usable and have sufficient space in which an individual in a wheelchair can maneuver.
4. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for individuals having physical disabilities, commonly cited as "ANSI A 117.1 (1986)", satisfies the requirements of adaptive design in subdivision c of subsection 3.
 5. The adaptive design requirements of subdivision c of subsection 3 do not apply to a building the first occupancy of which occurred on or before March 13, 1991.
 6. This section does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals whose tenancy would result in substantial physical damage to the property of others.
 7. Covered multifamily dwellings are buildings consisting of four or more units if the buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

14-02.5-07. Residential real estate-related transaction.

A person whose business includes engaging in residential real estate-related transactions may not discriminate against an individual in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance. A residential real estate-related transaction is the selling, brokering, or appraising of residential real property or the making or purchasing of loans or the provision of other financial assistance to purchase, construct, improve, repair, maintain a dwelling, or to secure residential real estate. Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage.

14-02.5-08. Brokerage services.

A person may not deny an individual access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against an individual in the terms or conditions of access, membership, or participation in the organization, service, or facility because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

14-02.5-09. Sales and rentals exempted.

1. Sections 14-02.5-02 through 14-02.5-08 do not apply to the sale or rental of a single-family house sold or rented by the owner if the owner does not own more than three single-family houses at any one time or own any interest in, nor is there owned or reserved on the person's behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time. In addition, the house must be sold or rented without the use of the sales or rental facilities or services of a licensed real estate broker, agent, or realtor, or of a person in the business of selling or renting dwellings, or of an employee or agent of any such broker, agent, realtor, or person; or the publication, posting, or mailing of a notice, statement, or advertisement prohibited by section 14-02.5-03. The exemption provided in this subsection applies only to one sale or rental in a twenty-four-month period, if the owner was not the most recent resident of the house at the time of the sale or rental. For the purposes of this subsection, a person is in the business of selling or renting dwellings if the person:

- a. Within the preceding twelve months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest in a dwelling;
 - b. Within the preceding twelve months, has participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest in a dwelling; or
 - c. Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.
2. Section 14-02.5-02 and sections 14-02.5-04 through 14-02.5-08 do not apply to the sale or rental of the rooms or units in a dwelling containing living quarters occupied by or intended to be occupied by not more than four families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence.

14-02.5-10. Religious organization, private club, and appraisal exemption.

1. This chapter does not prohibit a religious organization, association, or society or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to individuals of the same religion or giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.
2. This chapter does not prohibit a private club that is not in fact open to the public and that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of the lodging to its members or from giving preference to its members, unless membership in the club is restricted because of race, color, or national origin.
3. This chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from considering in those appraisals factors other than race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

14-02.5-11. Housing for elderly exempted.

1. The provisions of this chapter relating to familial status and age do not apply to housing that the secretary of housing and urban development determines is specifically designed and operated to assist elderly individuals under a federal program; the department determines is specifically designed and operated to assist elderly individuals under a state program; is intended for, and solely occupied by, individuals sixty-two years of age or older; or is intended and operated for occupancy by at least one individual fifty-five years of age or older for each unit as determined by department rules. In determining whether housing qualifies as housing for elderly because it is intended and operated for occupancy by at least one individual fifty-five years of age or older for each unit, the department shall adopt rules that require at least the following factors:
 - a. That at least eighty percent of the units are occupied by at least one individual fifty-five years of age or older per unit; and
 - b. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for individuals fifty-five years of age or older.
2. Housing may not be considered to be in violation of the requirements for housing for elderly under this section by reason of:
 - a. Individuals residing in the housing as of October 1, 1999, who do not meet the age requirements of this section, provided that new occupants of the housing meet the age requirements; or

- b. Unoccupied units, provided that the units are reserved for occupancy by individuals who meet the age requirements of this section.

14-02.5-12. Effect on other law.

1. This chapter does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or a restriction relating to health or safety standards.
2. This chapter does not affect a requirement of nondiscrimination in any other state or federal law.

14-02.5-13. Duties and powers of department.

1. The department shall administer this chapter. The department may adopt rules necessary to implement this chapter, but substantive rules adopted by the department must impose obligations, rights, and remedies that are the same as are provided in federal fair housing regulations.
2. For the purpose of thoroughly investigating a complaint, the department may require the attendance of a witness and the production of a book, record, document, data, or other object at any hearing or with reference to any matter the department has the authority to investigate. If under this subsection a witness fails or refuses to appear or to produce, the department may issue a subpoena to compel the witness to appear or a subpoena duces tecum to compel the witness to appear and produce a relevant book, record, document, data, or other object.
3. If a person refuses to obey a subpoena, the district court, upon application by the department, may issue to the person an order requiring that person appear and give evidence or otherwise produce documentary evidence requested by the department regarding the matter under investigation.
4. A witness who is subpoenaed under this section and who appears at a hearing or whose deposition is taken is entitled to receive the same fees and mileage as a witness in a civil case in district court.
5. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, landlords, publishers, realtors, brokers, lenders, and sellers on the rights and responsibilities provided under this chapter and ways to respect those protected rights.
6. The department shall emphasize conciliation to resolve complaints.

14-02.5-14. Complaints.

As provided by sections 14-02.5-18 through 14-02.5-35, the department shall receive, investigate, seek to conciliate, and act on complaints alleging violations of this chapter.

14-02.5-15. Reports and studies.

The department shall publish in even-numbered years a written report recommending legislative or other action to carry out the purposes of this chapter. The department shall make studies relating to the nature and extent of discriminatory housing practices in this state.

14-02.5-16. Cooperation with other entities.

The department shall cooperate with and may provide technical and other assistance to federal, state, local, and other public or private entities that are designing or operating programs to prevent or eliminate discriminatory housing practices.

14-02.5-17. Gifts and grants - Fair housing fund - Continuing appropriation.

The department may accept grants from the federal government for administering this chapter. Grants received must be deposited to the credit of the fair housing fund in the state treasury. Moneys deposited to the credit of the fund are appropriated to the department on a continuing basis for the purposes of administering this chapter.

14-02.5-18. Complaint.

1. The department shall investigate complaints of alleged discriminatory housing practices. An aggrieved person may file a complaint with the department alleging the discriminatory housing practice. The department may file a complaint. A complaint must be in writing and must contain such information and be in such form as prescribed by the department. A complaint must be filed on or before the first anniversary of the date the alleged discriminatory housing practice occurs or terminates, whichever is later. A complaint may be amended at any time.
2. On the filing of a complaint, the department shall give the aggrieved person notice that the complaint has been received, advise the aggrieved person of the time limits and choice of forums under this chapter, and not later than the tenth day after the date of the filing of the complaint or the identification of an additional or substitute respondent under section 14-02.5-21, serve on each respondent a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this chapter and a copy of the original complaint.

14-02.5-19. Answer.

1. Not later than the tenth day after the date of receipt of the notice and copy of the complaint under subsection 2 of section 14-02.5-18, a respondent may file an answer to the complaint. An answer must be in writing, under oath, and in the form prescribed by the department.
2. An answer may be amended at any time. An answer does not inhibit the investigation of a complaint.

14-02.5-20. Investigation.

1. If the federal government has referred a complaint to the department or has deferred jurisdiction over the subject matter of the complaint to the department, the department shall investigate the allegations set forth in the complaint.
2. The department shall investigate all complaints and, except as provided by subsection 3, shall complete an investigation not later than the hundredth day after the date the complaint is filed or, if it is impracticable to complete the investigation within the hundred-day period, shall dispose of all administrative proceedings related to the investigation not later than the first anniversary after the date the complaint is filed.
3. If the department is unable to complete an investigation within the time periods prescribed by subsection 2, the department shall notify the complainant and the respondent in writing of the reasons for the delay.

14-02.5-21. Additional or substitute respondent.

The department may join a person not named in the complaint as an additional or substitute respondent if during the investigation the department determines that the person is alleged to be engaged, to have engaged, or to be about to engage in the discriminatory housing practice upon which the complaint is based. In addition to the information required in the notice under subsection 2 of section 14-02.5-18, the department shall include in a notice to a respondent joined under this section the reasons for the determination that the person is properly joined as a respondent.

14-02.5-22. Conciliation.

The department shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the department, to the extent feasible, engage in conciliation with respect to the complaint. A conciliation agreement between a respondent and the complainant is subject to departmental approval. A conciliation agreement may provide for binding arbitration or another method of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

14-02.5-23. Temporary or preliminary relief.

The department may authorize a claim for relief for temporary or preliminary relief pending the final disposition of a complaint, if the department concludes after the filing of the complaint that prompt judicial action is necessary to carry out the purposes of this chapter. On receipt of the department's authorization, the attorney general shall promptly file the claim. A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable statutes and the North Dakota Rules of Civil Procedure. The filing of a claim for relief under this section does not affect the initiation or continuation of administrative proceedings under section 14-02.5-31.

14-02.5-24. Investigative report.

The department shall prepare a final investigative report, including the names of and dates of contacts with witnesses, a summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts, a summary description of other pertinent records, a summary of witness statements, and answers to interrogatories. A final report under this section may be amended if additional evidence is discovered.

14-02.5-25. Reasonable cause determination.

1. The department shall determine from the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The department shall make this determination not later than the one-hundredth day after the date a complaint is filed unless making the determination is impracticable, or the department approves a conciliation agreement relating to the complaint.
2. If making the determination within the period is impracticable, the department shall give in writing to the complainant and the respondent the reasons for the delay. If the department determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the department shall, except as provided by section 14-02.5-27, immediately issue a charge on behalf of the aggrieved person.

14-02.5-26. Charge.

1. A charge issued under section 14-02.5-25 must consist of a short and plain statement of the facts on which the department finds reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur, must be based on the final investigative report, and is not limited to the facts or grounds alleged in the complaint.
2. Within three days after issuing a charge, the department shall send a copy of the charge with information about the election under section 14-02.5-30 to each respondent and each aggrieved person on whose behalf the complaint was filed.
3. The department shall include with a charge sent to a respondent a notice of the opportunity for a hearing under section 14-02.5-31.

14-02.5-27. Land use law.

If the department determines that the matter involves the legality of a state or local zoning or other land use law or ordinance, the department may not issue a charge and shall immediately refer the matter to the attorney general for appropriate action.

14-02.5-28. Dismissal.

If the department determines that no reasonable cause exists to believe that a discriminatory housing practice that is the subject of a complaint has occurred or is about to occur, the department shall promptly dismiss the complaint. The department shall make public disclosure of each dismissal.

14-02.5-29. Pending civil trial.

The department may not issue a charge alleging a discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.

14-02.5-30. Election of judicial determination.

A complainant, a respondent, or an aggrieved person on whose behalf a complaint was filed may elect to have the claims asserted in the charge decided in a civil action as provided by section 14-02.5-36. The election must be made not later than the twentieth day after the date the person having the election receives service under subsection 2 of section 14-02.5-26 or, in the case of the department, not later than the twentieth day after the date the charge is issued. The person making the election shall give notice to the department and to all other complainants and respondents to whom the charge relates.

14-02.5-31. Administrative hearing.

1. If a timely election is not made under section 14-02.5-30, the department shall provide for a hearing on the charge. The attorney general, at the request of and on behalf of the department, may participate in and advocate in favor of the department's finding of probable cause. The aggrieved person may be represented by private counsel. Except as provided in this section, chapter 28-32 governs a hearing and an appeal of a hearing. A hearing under this section on an alleged discriminatory housing practice may not continue after the beginning of the trial of a claim for relief commenced by the aggrieved person under federal or state law seeking relief with respect to the discriminatory housing practice.
2. If a claim filed by an aggrieved person proceeds to a hearing, the aggrieved person is a party in the hearing. Neither the department nor the attorney general represents an aggrieved person at a hearing under this chapter. The attorney general, at the request of and on behalf of the department, may participate in the hearing and advocate in favor of the department's finding of probable cause. The aggrieved person may be represented by private counsel in any action or proceeding under this chapter.
3. If a claim filed by the department proceeds to a hearing, the department is a party in the hearing. The attorney general represents the department in any action or proceeding under this chapter.

14-02.5-32. Administrative penalties.

1. If the department determines at a hearing under section 14-02.5-31 that a respondent has engaged in or is about to engage in a discriminatory housing practice, the department may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief.
2. To vindicate the public's interest, the department may assess a civil penalty against the respondent in an amount that does not exceed:
 - a. Eleven thousand dollars if the respondent has been found by order of the department or a court to have committed a prior discriminatory housing practice; or
 - b. Except as provided by subsection 3, twenty-seven thousand dollars if the respondent has been found by order of the department or a court to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the charges and fifty-five thousand dollars if the respondent has been found by the department or a court to have committed two or more discriminatory housing practices during the seven-year period ending on the date of filing of the charge.
3. If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has previously been found to have committed acts constituting a discriminatory housing practice, the civil penalties in

subdivision b of subsection 2 may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

4. At the request of the department, the attorney general shall sue to recover a civil penalty due under this section. Funds collected under this section must be paid to the state treasurer for deposit in the general fund.

14-02.5-33. Effect of departmental order.

A departmental order under section 14-02.5-32 does not affect a contract, sale, encumbrance, or lease that is consummated before the department issues the order and involves a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge filed under this chapter.

14-02.5-34. Licensed or regulated business.

If the department issues an order with respect to a discriminatory housing practice that occurs in the course of a business subject to a licensing or regulation by a governmental agency, the department, not later than the thirtieth day after the date the order is issued, shall send copies of the findings and the order to the governmental agency and recommend to the governmental agency appropriate disciplinary action.

14-02.5-35. Order in preceding five years.

If the department issues an order against a respondent against whom another order was issued within the preceding five years under section 14-02.5-33, the department shall send a copy of each order to the attorney general.

14-02.5-36. Attorney general action for enforcement.

If a timely election is made under section 14-02.5-30, the department shall authorize and the attorney general shall file not later than the thirtieth day after the date of the election a claim for relief seeking relief for the benefit of the aggrieved person in a district court. In any action for enforcement under this section, the attorney general represents the department. Venue for an action is in the county in which the alleged discriminatory housing practice occurred or is about to occur. An aggrieved person may intervene in the action. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under sections 14-02.5-39 through 14-02.5-44. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.

14-02.5-37. Pattern or practice case - Penalties.

1. On the request of the department, the attorney general may file a claim for relief in district court for appropriate relief if the department has reasonable cause to believe that a person is engaged in a pattern or practice of resistance to the full enjoyment of a right granted under this chapter or a person has been denied a right granted by this chapter and that denial raises an issue of general public importance.
2. In an action under this section, the court may award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter as necessary to assure the full enjoyment of the rights granted by this chapter; award other appropriate relief, including monetary damages, reasonable attorney's fees, and court costs; and to vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed fifty thousand dollars for a first violation and one hundred thousand dollars for a second or subsequent violation.
3. A person may intervene in an action under this section if the person is a person aggrieved by the discriminatory housing practice or a party to a conciliation agreement concerning the discriminatory housing practice.

14-02.5-38. Subpoena enforcement.

The attorney general, on behalf of the department or another party at whose request a subpoena is issued under this chapter, may enforce the subpoena in appropriate proceedings in district court.

14-02.5-39. Civil action.

1. An aggrieved person may file a civil action in district court not later than the second year after the date of the occurrence or the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered under this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.
2. The two-year period does not include any time during which an administrative hearing under this chapter is pending with respect to a complaint or charge under this chapter based on the discriminatory housing practice. This subsection does not apply to actions arising from the breach of a conciliation agreement.
3. An aggrieved person may file a claim for relief whether a complaint has been filed under section 14-02.5-18 and without regard to the status of any complaint filed under that section.
4. If the department has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file a claim for relief with respect to the alleged discriminatory housing practice that forms the basis of the complaint except to enforce the terms of the agreement.
5. An aggrieved person may not file a claim for relief with respect to an alleged discriminatory housing practice that forms the basis of a charge issued by the department if the department has begun a hearing on the record under this chapter with respect to the charge.

14-02.5-40. Court-appointed attorney.

On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory housing practice is alleged, the court may appoint an attorney for the person.

14-02.5-41. Relief granted.

If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, reasonable attorney's fees, court costs, and subject to section 14-02.5-42, a permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

14-02.5-42. Effect of relief granted.

Relief granted under sections 14-02.5-39 through 14-02.5-44 does not affect a contract, sale, encumbrance, or lease that is consummated before the granting of the relief and involves a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint or civil action under this chapter.

14-02.5-43. Intervention by attorney general.

On request of the department, the attorney general may intervene in an action under sections 14-02.5-39 through 14-02.5-44 if the department certifies that the case is of general public importance. The attorney general may obtain the same relief as is available to the attorney general under subsection 2 of section 14-02.5-37.

14-02.5-44. Prevailing party.

A court in an action brought under this chapter or the department in an administrative hearing under section 14-02.5-31 may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

14-02.5-45. Intimidation or interference - Penalty.

1. A person commits an offense if the person, without regard to whether the person is acting under color of law, by force or threat of force, intentionally intimidates or interferes with an individual:
 - a. Because of the individual's race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance and because the individual is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or
 - b. Because the individual is or has been or to intimidate the individual from participating, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described by subdivision a; affording another individual opportunity or protection to so participate; or lawfully aiding or encouraging other individuals to participate, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described in subdivision a.
2. It is a discriminatory practice to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of the individual having exercised or enjoyed, or on account of the individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.
3. An offense under subsection 1 of this section is a class A misdemeanor.

14-02.5-46. Records exempt.

A complaint filed with the department under section 14-02.5-18 is an open record. Information obtained during an investigation conducted by the department under this chapter is exempt from section 44-04-18 before the institution of any judicial proceedings or administrative hearing relating to the complaint under this chapter or before the administrative closure of a complaint by the department. The department may disclose to the complainant or the respondent, or representatives of the complainant or respondent, information obtained during an investigation if deemed necessary by the department for securing an appropriate resolution of a complaint. The department may disclose information obtained during an investigation to a federal agency if necessary for the processing of complaints under an agreement with the agency. Individually identifiable health information obtained during an investigation may not be disclosed by the department except to a federal agency if necessary for the processing of complaints under an agreement with the agency. Statements made or actions taken during conciliation efforts relating to a complaint under this chapter may not be disclosed by the department, except to a federal agency if necessary for the processing of complaints under an agreement with the agency, and may not be used as evidence in a subsequent proceeding under this chapter without the written consent of the parties to the conciliation. A conciliation agreement is an open record unless the complainant and respondent agree that it is not and the department determines that disclosure is not necessary to further the purposes of this chapter. Investigative working papers are exempt from section 44-04-18.