# Sixty-fourth Legislative Assembly of North Dakota
# In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1337
(Representatives Devlin, Froseth, Glassheim)
(Senators Flakoll, Heckaman, Krebsbach)

AN ACT to amend and reenact subsection 2 of section 44-04-18, subsection 1 of section 44-04-18.3, section 44-04-18.20, and subsection 7 of section 44-04-19.1 of the North Dakota Century Code, relating to the regulation and enforcement of the open record and meeting laws.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 44-04-18 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request for a copy of specific public records, any entity subject to subsection 1 shall furnish the requester one copy of the public records requested. A request need not be made in person or in writing, and the copy must be mailed upon request. A public entity may charge up to twenty-five cents per impression of a paper copy. As used in this section, "paper copy" means a one-sided or two-sided duplicated copy of a size not more than eight and one-half by fourteen inches [19.05 by 35.56 centimeters]. For any copy of a record that is not a paper copy as defined in this section, the public entity may charge a reasonable fee for making the copy. As used in this section, "reasonable fee" means the actual cost to the public entity of making the copy, including labor, materials, and equipment. The entity may charge for the actual cost of postage to mail a copy of a record. An entity may require payment before locating, redacting, making, or mailing the copy. <u>The public entity may withhold records pursuant to a request until such time as a requester provides payment for any outstanding balance for prior requests.</u> An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for locating records, including electronic records, if locating the records requires more than one hour. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for excising confidential or closed material under section 44-04-18.10 from the records, including electronic records. <u>If a public entity receives five or more requests from the same requester within seven days, the public entity may treat the requests as one request in computing the time it takes to locate and excise the records.</u> If the entity is not authorized to use the fees to cover the cost of providing or mailing the copy, or both, or if a copy machine is not readily available, the entity may make arrangements for the copy to be provided or mailed, or both, by another entity, public or private, and the requester shall pay the fee to that other entity. This subsection does not apply to copies of public records for which a different fee is specifically provided by law.

**SECTION 2. AMENDMENT.** Subsection 1 of section 44-04-18.3 of the North Dakota Century Code is amended and reenacted as follows:

1. Any telephone number and the home address of a juvenile court director or probation officer, an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential. Information contained in a personnel record of an employee of the department of corrections and rehabilitation may not be disclosed to an inmate in the legal custody of the department of corrections and rehabilitation confined in a jail, prison, or other correctional facility unless authorized by the director of the department of corrections and rehabilitation. <u>Information contained in a personnel record of a law enforcement officer of a state or local law enforcement agency or in the personnel record of a correctional employee of a correctional facility subject to chapter 12-44.1 may not be disclosed to an inmate confined in a state correctional facility or correctional facility subject to chapter 12-44.1 unless authorized by the employing agency.</u>

**SECTION 3. AMENDMENT.** Section 44-04-18.20 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.20. Domestic violence and victim record information of law enforcement exempt.**

The address, telephone number, or any identifying information that, if released, could reasonably be used to locate or identify a victim or alleged victim of domestic violence, of a sex offense under chapter 12.1-20, of sexual performances by a child under chapter 12.1-27.2, or of human trafficking under chapter 12.1-40, contained in any record maintained by a law enforcement facility is exempt from section 44-04-18 and may be redacted from the record before it is released.

**SECTION 4. AMENDMENT.** Subsection 7 of section 44-04-19.1 of the North Dakota Century Code is amended and reenacted as follows:

7. "Investigatory work product" means records obtained, compiled, or prepared by a public entity in an effort to monitor and enforce compliance with the law or an order. Investigatory work product must be considered active as long as it is related to monitoring ~~or~~and enforcement activity conducted with a reasonable good-faith belief that it will lead to enforcement of the law or an order the public entity is charged by statute or other law with monitoring and enforcing.

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-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1337.

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| House Vote: | Yeas 93 | Nays 0 | Absent 1 |
| Senate Vote: | Yeas 47 | Nays 0 | Absent 0 |

Chief Clerk of the House

Received by the Governor at 10:30 A.M. on March 13, 2015.

Approved at 2:32 P.M. on March 16, 2015.

Governor

Filed in this office this 16th day of March, 2015,

at 3:27 o'clock P M.

Secretary of State