

Introduced by

Judiciary Committee

(At the request of the Adjutant General)

1 A BILL for an Act to amend and reenact section 44-04-18.1 of the North Dakota Century Code,  
2 relating to confidentiality of emergency responder peer or group counseling session records  
3 relating to critical incident stress management.

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.**

- 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 home address; home  
19 telephone number or personal cell phone number; photograph; medical information;  
20 motor vehicle operator's identification number; public employee identification number;  
21 payroll deduction information; the name, address, telephone number, and date of birth  
22 of any dependent or emergency contact; any credit, debit, or electronic fund transfer  
23 card number; and any account number at a bank or other financial institution.

- 1       3. Nonconfidential information contained in a personnel record of an employee of a  
2       public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 is  
3       exempt.
- 4       4. Except as otherwise specifically provided by law, personal information regarding a  
5       licensee maintained by an occupational or professional board, association, state  
6       agency, or commission created by law is exempt. As used in this section, "licensee"  
7       means an individual who has applied for, holds, or has held in the past an  
8       occupational or professional license, certificate, credential, permit, or registration  
9       issued by a state occupational or professional board, association, agency, or  
10      commission.
- 11     5. Records and privileged information relating to persons engaged in a public safety peer  
12     counseling or a public safety peer debriefing are exempt. Without the permission of  
13     the person being debriefed or counseled, persons are not allowed to disclose any  
14     information or opinion which the peer group member or peer counselor has acquired  
15     during the process. However, this does not prohibit a peer counselor from disclosing  
16     information the peer counselor reasonably believes indicates that the person may be a  
17     danger to self or others, if the information is used only for the purpose of eliminating  
18     the danger to the person or others. Any information or opinion disclosed in violation of  
19     this subsection is not admissible as evidence in any personnel or occupational  
20     licensing matter involving the person being debriefed or counseled. For purposes of  
21     this section, "public safety peer counseling or debriefing" means a group  
22     process-oriented debriefing session, or one-to-one contact with a peer counselor, held  
23     for peace officers, firefighters, medical emergency persons, dispatchers, or other  
24     persons involved with public safety emergency services, that is established by an  
25     agency providing public safety emergency services and is designed to help a person  
26     who has suffered an occupation-related trauma, illness, or stress begin the process of  
27     healing and effectively dealing with the person's problems or the use of the peer  
28     counselor for direction with referrals to better service these occupation-related issues.  
29     A "peer counselor" means someone so designated by that agency.