

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1435

Introduced by

Representatives Mock, Karls, Sanford

Senators Berry, Mathern, Schneider, Sorvaag

1 A BILL for an Act to amend and reenact sections 12.1-23-11, 51-30-01, and 51-30-06 of the
2 North Dakota Century Code, relating to medical information identity theft.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-23-11 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-23-11. Unauthorized use of personal identifying information - Penalty.**

7 1. As used in this section, "personal identifying information" means any of the following
8 information:

- 9 a. An individual's name;
- 10 b. An individual's address;
- 11 c. An individual's telephone number;
- 12 d. ~~The distinguishing operator's license number~~information assigned to an individual
13 by the department of transportation under section 39-06-14;
- 14 e. An individual's social security number;
- 15 f. An individual's employer or place of employment;
- 16 g. An identification number assigned to the individual by the individual's employer;
- 17 h. The maiden name of the individual's mother;
- 18 ~~The identifying number of a depository account in a~~An individual's financial
19 institution account number, credit card number, or debit card number; ~~or~~
- 20 j. An individual's birth, death, or marriage certificate~~;~~;
- 21 An individual's health insurance policy number or subscriber identification number
22 or any unique identifier used by a health insurer to identify the individual;
- 23 The nondriver color photo identification card information assigned to the
24 individual by the department of transportation under section 39-06-03.1; or

1 m. An individual's digitized or other electronic signature.

2 2. A person is guilty of an offense if the person uses or attempts to use any personal
3 identifying information of an individual, living or deceased, to obtain credit, money,
4 goods, services, or anything else of value without the authorization or consent of the
5 individual and by representing that person is the individual or is acting with the
6 authorization or consent of the individual. The offense is a class B felony if the credit,
7 money, goods, services, or anything else of value exceeds one thousand dollars in
8 value, otherwise the offense is a class C felony. A second or subsequent offense is a
9 class A felony.

10 3. A violation of this section, of a law of another state, or of federal law that is equivalent
11 to this section and which resulted in a plea or finding of guilt must be considered a
12 prior offense. The prior offense must be alleged in the complaint, information, or
13 indictment. The plea or finding of guilt for the prior offense must have occurred before
14 the date of the commission of the offense or offenses charged in the complaint,
15 information, or indictment.

16 4. A prosecution for a violation of this section must be commenced within six years after
17 discovery by the victim of the offense of the facts constituting the violation.

18 5. When a person commits violations of this section in more than one county involving
19 either one or more victims or the commission of acts constituting an element of the
20 offense, the multiple offenses may be consolidated for commencement of prosecution
21 in any county where one of the offenses was committed.

22 **SECTION 2. AMENDMENT.** Section 51-30-01 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **51-30-01. Definitions.**

25 In this chapter, unless the context or subject matter otherwise requires:

26 1. "Breach of the security system" means unauthorized acquisition of computerized data
27 when access to personal information has not been secured by encryption or by any
28 other method or technology that renders the electronic files, media, or databases
29 unreadable or unusable. Good-faith acquisition of personal information by an
30 employee or agent of the person is not a breach of the security of the system, if the
31 personal information is not used or subject to further unauthorized disclosure.

- 1 2. "Health insurance information" means an individual's health insurance policy number
2 or subscriber identification number and any unique identifier used by a health insurer
3 to identify the individual.
- 4 3. "Medical information" means any information regarding an individual's medical history,
5 mental or physical condition, or medical treatment or diagnosis by a health care
6 professional.
- 7 4. a. "Personal information" means an individual's first name or first initial and last
8 name in combination with any of the following data elements, when the name and
9 the data elements are not encrypted:
- 10 (1) The individual's social security number;
- 11 (2) The operator's license number assigned to an individual by the department
12 of transportation under section 39-06-14;
- 13 (3) A nondriver color photo identification card number assigned to the individual
14 by the department of transportation under section 39-06-03.1;
- 15 (4) The individual's financial institution account number, credit card number, or
16 debit card number in combination with any required security code, access
17 code, or password that would permit access to an individual's financial
18 accounts;
- 19 (5) The individual's date of birth;
- 20 (6) The maiden name of the individual's mother;
- 21 (7) Medical information;
- 22 (8) Health insurance information;
- 23 (9) An identification number assigned to the individual by the individual's
24 employer; or
- 25 ~~(8)~~(10) The individual's digitized or other electronic signature.
- 26 b. "Personal information" does not include publicly available information that is
27 lawfully made available to the general public from federal, state, or local
28 government records.

29 **SECTION 3. AMENDMENT.** Section 51-30-06 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **51-30-06. Alternate compliance.**

2 Notwithstanding section 51-30-05, a person that maintains its own notification procedures
3 as part of an information security policy for the treatment of personal information and is
4 otherwise consistent with the timing requirements of this chapter is deemed to be in compliance
5 with the notification requirements of this chapter if the person notifies subject individuals in
6 accordance with its policies in the event of a breach of security of the system. A financial
7 institution, trust company, or credit union that is subject to, examined for, and in compliance with
8 the federal interagency guidance on response programs for unauthorized access to customer
9 information and customer notice is ~~deemed to be~~ in compliance with this chapter. A covered
10 entity, business associate, or subcontractor subject to breach notification requirements under
11 title 45, Code of Federal Regulations, subpart D, part 164, is considered to be in compliance
12 with this chapter.