

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2113

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. Information relating directly to persons engaged in an organized 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 counseling or public safety peer debriefing event. However, this does not
16 prohibit a peer counselor from disclosing information the peer counselor reasonably
17 believes indicates that the person may be a danger to self or others, if the information
18 is used only for the purpose of eliminating the danger to the person or others. Any
19 information or opinion disclosed in violation of this subsection is not admissible as
20 evidence in any personnel or occupational licensing matter involving the person being
21 debriefed or counseled. For purposes of this section, "public safety peer counseling or
22 debriefing" means an organized group process-oriented debriefing session, or one-to-
23 one contact with a peer counselor, held for peace officers, firefighters, medical
24 emergency persons, dispatchers, or other persons involved with public safety
25 emergency services, that is established by an agency providing public safety
26 emergency services and is designed to help a person who has suffered an
27 occupation-related trauma, illness, or stress begin the process of healing and
28 effectively dealing with the person's problems or the use of the peer counselor for
29 direction with referrals to better service these occupation-related issues. A "peer
30 counselor" means someone so designated by that agency in writing. This subsection
31 does not preclude use of information obtained from another source.