

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1316
(Representatives Pyle, Becker, Ertelt, Hoverson, Johnston, Marschall)
(Senators Bekkedahl, Luick)

AN ACT to amend and reenact section 37-18-11 of the North Dakota Century Code, relating to maintenance of records of veterans' and veterans' dependents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-18-11 of the North Dakota Century Code is amended and reenacted as follows:

37-18-11. Release of information and records - Confidential nature.

All records and papers pertaining or relating to veterans ~~which are transmitted by the United States government to the department of veterans' affairs or veterans' eligible dependents~~ must be kept and maintained by ~~said~~the department of veterans' affairs under the following provisions and conditions:

1. All records and papers of the department ~~are to~~must be utilized in the manner to best serve the public interest, but the veteran's right of privacy as to information pertaining to the veteran's military or naval service and to confidential information contained in the veteran's application for benefits will be respected.
2. All reports of investigation made by employees of the department or at the direction of the department for official departmental purposes are for the use of the commissioner and the commissioner's staff only. Materials and information which disclose the investigative techniques of the department or the identity of confidential informants and material received in confidence by representatives of the department will not be released.
3. Records pertaining to any application for benefits, whether pending or adjudicated, ~~will be~~are deemed confidential and ~~no disclosure therefrom will~~may not be made~~disclosed~~ except in the circumstances and under the conditions set forth in this chapter, ~~and any person making application. For purposes of this section, "applicant" means an individual applying for benefits must hereinafter be referred to as the applicant.~~
4. An applicant may not have access to official department records concerning the applicant, but information from official records may be disclosed to an applicant or the applicant's duly authorized representative as to matters concerning the applicant.
5. "Duly authorized representative" ~~is defined as~~means any person authorized in writing by the applicant to act for the applicant, or the applicant's legally constituted representative if the applicant is incompetent or deceased. If for proper reason ~~no such~~a representative has not been or will not be appointed, the applicant's spouse, an adult child, or if the applicant is unmarried, either of the applicant's parents ~~shall be~~are recognized as the duly authorized representative of the applicant.
6. Medical information may be disclosed as follows:
 - a. Except as otherwise required by law, information contained in a veteran's medical records on file ~~shall~~must be disclosed to the ~~resident~~veteran on request.
 - b. Information contained in medical records of ~~residents and beneficiaries~~veterans or veterans' dependents pertaining to medical history, diagnosis, findings, or treatment may be disclosed directly to physicians and hospitals for treatment, payment, and health care

operations, and as otherwise authorized by law. This information is to be treated as confidential information. This information also may be disclosed without the consent of the ~~resident~~veteran or the ~~resident's personal~~veteran's duly authorized representative when a request for the information is received from the veterans' administration, the United States public health service, the superintendent of a state hospital, a commissioner or head of a state department of mental hygiene, or head of a state, county, or city health department and the disclosure is required by law, or for the purpose of treatment, payment, or health care operations.

7. Information contained in loan files may be made available to any party having an interest in ~~such~~the loan transaction upon approval by the ~~director~~commissioner or pursuant to rules and regulations ~~promulgated~~adopted by the ~~director~~commissioner.
8. Information contained in department files required for official purposes by any agency of the United States government or by any agency of ~~the~~this state of ~~North Dakota~~, or by any law enforcement or public welfare agency of any ~~North Dakota~~ county or municipality of this state may be furnished in response to an official request, written or oral, from ~~such~~the agency. The requesting agency must be asked to specify the purpose for which ~~such~~the information is to be used.
9. Subject to the limitations of any other law, members of the legislative assembly may be furnished ~~such~~the information contained in department files as may be requested for official use.
10. A county veterans' service officer may ~~be permitted to~~ inspect records pertaining to any application for benefits in which the officer's office may be directly involved upon the condition that only ~~such~~the information contained ~~therein~~in the application as may be properly disclosed ~~will~~must be disclosed by the officer only to the applicant or if the applicant is incompetent, to the applicant's ~~legally constituted~~duly authorized representative.
11. When records pertaining to any application for benefits are requested for use in any judicial proceedings, ~~they will~~the records may be released only upon service of a proper subpoena and upon the condition that ~~they will be~~the records will be returned upon conclusion of ~~such~~the proceedings.
12. Addresses of applicants from department records ~~will~~may not be furnished, except as provided in subsections 5 through 10. When an address is requested by a person to whom it may not be furnished, the person making the request ~~will~~must be informed that correspondence enclosed in an unsealed envelope showing no return address, with the name of the addressee ~~thereon~~on the correspondence, and bearing sufficient postage to cover mailing costs will be forwarded by the department. ~~At the time~~When the correspondence is forwarded, the department's return address ~~will~~must be placed on the envelope. If undelivered mail is returned to the department, the original sender ~~will~~must be notified ~~thereof~~, ~~but~~and the envelope ~~will~~must be retained by the department. ~~In no event will~~The department may not forward letters ~~be forwarded~~ for the purposes of debt collection, canvassing, or harassment.
13. Separation documents evidencing service in the armed forces of the United States ~~will be considered~~and information extracted from a separation document by the United States department of defense are confidential and privileged, anything contained in subsections 4 through 10 notwithstanding. Examination of ~~such~~those records ~~will be~~is limited to authorized employees of the department and information entered ~~thereon~~within those records may be disclosed only to interested governmental agencies for the purpose of assisting veterans ~~and their~~or veterans' eligible dependents to obtain the rights and benefits to which ~~they~~the veterans or veterans' eligible dependents may be entitled.

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-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1316.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 43 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State