

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1294

Introduced by

Representatives Roers Jones, M. Johnson, Jones, Klemin, Satrom, Vetter

Senators Bakke, Dwyer, Luick, Meyer, K. Roers

1 A BILL for an Act to create and enact a new section to chapter 12-44.1 and section 12-60-16.12
2 of the North Dakota Century Code, relating to the confidentiality of booking photos and the
3 unauthorized dissemination of criminal history record information; to amend and reenact
4 subsection 2 of section 44-04-18.7 of the North Dakota Century Code, relating to criminal
5 information; and to provide a penalty.

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

7 **SECTION 1.** A new section to chapter 12-44.1 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Prohibition - Booking photo - Confidential.**

10 1. Unless there is a public safety or law enforcement interest warranting release, the
11 booking photo of an arrestee is a confidential record until the arrestee:

12 a. Fails to appear for court;

13 b. Is a fugitive from justice; or

14 c. Is charged with the offense for which the arrestee was arrested or an offense
15 related to the offense for which the arrestee was arrested.

16 2. This section does not prohibit the dissemination of booking photos among or on behalf
17 of law enforcement agencies or officers.

18 3. An individual who violates this section is not subject to a penalty under section
19 12.1-13-01.

20 **SECTION 2.** Section 12-60-16.12 of the North Dakota Century Code is created and enacted
21 as follows:

22 **12-60-16.12. Criminal history record information - Civil action - Penalty.**

23 A person that disseminates, publishes, or maintains or causes to be disseminated,
24 published, or maintained, the criminal history record information of an individual which pertains

1 to that individual's charge or arrest for a criminal offense, and solicits, requests, or accepts
2 money or other thing of value for removing the criminal history record information is civilly liable
3 to that individual in the amount of five hundred dollars or actual damages, whichever is greater,
4 plus reasonable attorney's fees and court costs.

5 **SECTION 3. AMENDMENT.** Subsection 2 of section 44-04-18.7 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. "Criminal intelligence and investigative information" does not include:

- 8 a. Arrestee description, including name, date of birth, address, race, sex, physical
9 description, and occupation of arrestee.
- 10 b. Facts concerning the arrest, including the cause of arrest and the name of the
11 arresting officer.
- 12 c. Conviction information, including the name of any person convicted of a criminal
13 offense.
- 14 d. Disposition of all warrants, including orders signed by a judge of any court
15 commanding a law enforcement officer to arrest a particular person.
- 16 e. A chronological list of incidents, including initial offense report information
17 showing the offense, date, time, general location, officer, and a brief summary of
18 what occurred.
- 19 f. A crime summary, including a departmental summary of crimes reported and
20 public calls for service by classification, nature, and number.
- 21 g. Radio log, including a chronological listing of the calls dispatched.
- 22 h. General registers, including jail booking information.
- 23 ~~i. Arrestee photograph, if release will not adversely affect a criminal investigation.~~