

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2232
(Senators Luick, Larson)
(Representative Strinden)

AN ACT to create and enact a new subsection to section 44-04-18.7 of the North Dakota Century Code, relating to exempting crime scene images of minors; and to amend and reenact section 44-04-06, subsection 5 of section 44-04-19.1, subsection 4 of section 44-04-20, and subsection 1 of section 44-04-21.1 of the North Dakota Century Code, relating to law violations and open record and open meeting laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-06 of the North Dakota Century Code is amended and reenacted as follows:

44-04-06. Peace officers to report law violations.

The state's attorney, assistant state's attorney, sheriff, deputy sheriff, or peace officer of any county, township, city in this state, having any evidence, knowledge, or notice of any violation of any ~~liquor, gambling, cigarette, snuff, pool hall, bawdyhouse, prostitution, white slave, or habit-forming drug~~ laws of North Dakota shall investigate and seek evidence of the violation and the names of witnesses by whom the violation may be proved. ~~Any~~ A peace officer shall report the information to the state's attorney of the county in which the violation occurs and shall assist the state's attorney in the prosecution of the violators of said laws.

SECTION 2. A new subsection to section 44-04-18.7 of the North Dakota Century Code is created and enacted as follows:

Unless otherwise provided by law, descriptions of crime scene images that include a minor or a minor victim or parts of a record containing such descriptions are exempt.

SECTION 3. AMENDMENT. Subsection 5 of section 44-04-19.1 of the North Dakota Century Code is amended and reenacted as follows:

5. "Attorney consultation" means any discussion between the members of a governing body and its attorney in instances in which the governing body seeks or receives the attorney's advice regarding and in anticipation of reasonably predictable or pending civil or criminal litigation or adversarial administrative proceedings or to receive its attorney's advice and guidance on the legal risks, strengths, and weaknesses of an action of a public entity which, if held in public, would have an adverse fiscal effect on the entity. All other discussions beyond the attorney's advice and guidance must be made in the open, unless otherwise provided by law. All statements made by a participant or between participants during an executive session held for the purpose of attorney consultation are exempt if the statements relate to the subject for which attorney consultation was established. Mere presence or participation of an attorney at a meeting is not sufficient to constitute attorney consultation.

SECTION 4. AMENDMENT. Subsection 4 of section 44-04-20 of the North Dakota Century Code is amended and reenacted as follows:

4. The notice required in this section must be posted at the principal office of the governing body holding the meeting, if such exists, and at the location of the meeting on the day of the meeting. In addition, unless all the information contained in the notice was previously filed with the appropriate office under subsection 3, the notice must be filed in the office of the secretary of state for state-level bodies or for public entities defined in subdivision c of subsection 13 of

section 44-04-17.1, the city auditor or designee of the city for city-level bodies, the county auditor or designee of the county for all other bodies, ~~or. If the public entity has a website, notice also must be posted on the public entity's website.~~ This subsection does not apply to meetings of the legislative assembly or any committee thereof.

SECTION 5. AMENDMENT. Subsection 1 of section 44-04-21.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Any interested person may request an attorney general's opinion to review a written denial of a request for records under section 44-04-18, a denial of access to a meeting under section 44-04-19, or other alleged violation of section 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 by any public entity other than the legislative assembly or any committee thereof. A request made under this section must be made within thirty days of the alleged violation, except that a request based on allegations that a meeting occurred without the notice required by section 44-04-20, must be made within ninety days of the alleged violation. In preparing an opinion under this section, the attorney general has discretion to obtain and review a recording made under section 44-04-19.2. The attorney general may request and obtain information claimed to be exempt or confidential for the purpose of determining whether the information is exempt or confidential. Any such information may not be released by the attorney general and may be returned to the provider of the information. The attorney general shall issue to the public entity involved an opinion on the alleged violation, which may be a summary opinion, unless the request is withdrawn by the person requesting the opinion or a civil action has been filed involving the possible violation. The attorney general may decline to issue an opinion if the person requesting the opinion has made more than one request within the last thirty days or more than five requests for opinions in twelve months. If the request pertains to a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1, the opinion must be issued to the public entity providing the public funds. In any opinion issued under this section, the attorney general shall base the opinion on the facts given by the public entity.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2232.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 85 Nays 7 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State