

Introduced by

Senators Mathern, Klein

Representatives Devlin, Kasper, Rohr, Satrom

1 A BILL for an Act to create and enact section 51-22-04 of the North Dakota Century Code,
2 relating to the confidentiality of social security numbers; to amend and reenact sections
3 51-22-01, 51-22-02, and 51-22-03 of the North Dakota Century Code, relating to data
4 processing information confidentiality; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 51-22-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **51-22-01. Definitions.**

9 As used in this chapter:

- 10 1. "Bank" means a national bank, national banking association, trust company, bank and
11 trust company, corporation, state bank, state banking association, or savings
12 institution, whether organized under the laws of this state or of the United States,
13 engaged in the business of providing financial services.
- 14 2. "Business entity" means a sole proprietorship, partnership, corporation, limited liability
15 company, association, or other group, however organized and whether or not
16 organized to operate at a profit, doing business in this state.
- 17 ~~2-3.~~ "Data processing services" means ~~any~~ systematic sequence of operations, including
18 ~~but not limited to~~ bookkeeping functions, inventory control, storage, or manipulation
19 and retrieval of management or personnel information, performed ~~upon~~ data by
20 electronic devices which perform logical, arithmetic, and memory functions by the
21 manipulation of electronic or magnetic impulses. The term does not include operations
22 performed by telecommunication devices.

1 ~~3.4.~~ "Financial institution" means a bank, industrial loan company, industrial loan
2 association, consumer finance company, credit union, or savings and loan association
3 organized under the laws of this state or of the United States.

4 5. "Financial services" means the investment, lending, management, or transfer of
5 money or assets.

6 6. "Hospital" means a facility licensed under chapter 23-16 or a facility operated as a
7 hospital by the United States government.

8 7. "Individual" means a natural person.

9 ~~4.7.8.~~ "Person" means ~~any~~a natural person, corporation, limited liability company,
10 partnership, firm, association, or governmental entity.

11 ~~5.8.9.~~ "Record" means ~~any~~an item, collection, or grouping of information about an individual
12 or business entity.

13 ~~9.10.~~ "Trust company" means a corporation formed for the purpose of transacting business
14 as an annuity, safe deposit, surety, or trust company.

15 **SECTION 2. AMENDMENT.** Section 51-22-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **51-22-02. Prohibition against disclosure except upon written consent - Application of**
18 **section.**

19 1. ~~No~~A business entity which charges a fee for data processing services performed may
20 not disclose in whole or in part the contents of ~~any~~any record, including the disclosure of
21 information contained in the record through inclusion in any composite of information,
22 which is prepared or maintained by ~~such~~the business entity to ~~any~~any person, other than
23 the individual or business entity which is the subject of the record, without the ~~express-~~
24 written consent of ~~such~~the individual or business entity.

25 2. This section does not apply to ~~the following~~:

- 26 a. A disclosure to ~~any~~any person pursuant to a subpoena or court order;
- 27 b. A disclosure which is discoverable pursuant to the North Dakota Rules of Civil
28 Procedure; or
- 29 c. A disclosure to ~~any~~any person pursuant to a lawful search warrant.

30 **SECTION 3. AMENDMENT.** Section 51-22-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **51-22-03. Initiation of civil action - Liability for damages - Limitation.**

- 2 1. A person may initiate a civil action against a business entity in accordance with state
3 law whenever a business entity violates ~~the provisions of~~ section 51-22-02.
- 4 2. In ~~anya~~ suit brought pursuant to ~~the provisions of~~ subsection 1, a business entity
5 ~~which~~that has violated section 51-22-02 is liable to the person in an amount equal to
6 the actual damages sustained by the person as a result of ~~such~~the violation, but in no
7 case less than five hundred dollars.
- 8 3. An action to enforce ~~anya~~ liability created under ~~this chapter~~section 51-22-02 may be
9 brought in ~~anya~~ court of competent jurisdiction within two years from the date ~~on which~~
10 the claim for relief arose.

11 **SECTION 4.** Section 51-22-04 of the North Dakota Century Code is created and enacted as
12 follows:

13 **51-22-04. Confidentiality of social security numbers - Exceptions - Penalty.**

- 14 1. A business entity, firm, or an association may not:
- 15 a. Require an individual to disclose the individual's social security number to obtain
16 goods or services from or enter a business transaction with the business entity,
17 firm, or association;
- 18 b. Require an individual to transmit the individual's social security number, or part
19 thereof, over the internet;
- 20 c. Require an individual to use the individual's social security number, or a part
21 thereof, to access an internet website;
- 22 d. Require an individual to disclose, use, or verify the individual's social security
23 number, or a part thereof, to authenticate or identify an account, transaction, or
24 order;
- 25 e. Sell, advertise for sale, or offer to sell an individual's social security number;
- 26 f. Collect, use, or release a social security number for internal verification or
27 administrative purposes;
- 28 g. Transmit material associating a social security number with an account number;
29 or

- 1 h. Refuse to transact business because of refusal to provide the social security
2 number for use of that number in a manner prohibited by subdivisions a
3 through g.
- 4 2. Subsection 1 does not apply to:
- 5 a. The collection, use, or release of a social security number as required by state or
6 federal law;
- 7 b. A document or a copy or reproduction of a document furnished, generated, or
8 otherwise obtained before August 1, 2019; ~~or~~
- 9 c. A financial institution providing financial services; ~~or~~
10 d. A hospital.
- 11 3. The attorney general, in enforcing this section, has all powers provided in this section
12 or chapter 51-15, and may seek all remedies in this section or chapter 51-15.
- 13 4. The attorney general or a state's attorney with the permission or at the request of the
14 attorney general may bring an action for appropriate injunctive relief and civil penalties
15 in the name of the state for a violation of this section. The trier of fact may assess for
16 the benefit of the state a civil penalty of not more than one thousand dollars for each
17 violation of this section.