

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2209
(Senators W. Stenehjem, Andrist, C. Nelson)
(Representatives Berg, Delmore, Kretschmar)

AN ACT to amend and reenact subsections 7 and 8 of section 12.1-35-01, sections 12.1-35-03, 27-20-52, and 39-08-10.1 of the North Dakota Century Code, relating to the release of the identity of children and records regarding children and the release of the identity of persons seriously injured or deceased.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 7 and 8 of section 12.1-35-01 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

7. "Victim" means a living child who has suffered direct or threatened physical, financial, or emotional harm as a result of the commission or attempted commission of a crime.
8. "Witness" means any living child who has been or is expected to be summoned to testify in a criminal case whether or not any action or proceeding has been commenced.

SECTION 2. AMENDMENT. Section 12.1-35-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12.1-35-03. Public Information about child victims or witnesses of crimes generally may not appear in public record.

1. In order to protect the child from possible trauma resulting from publicity, the name of the child victim or witness of a crime, except as specified in subsection 2, and identifying biographical information may not appear on the indictment or any other public record. Instead, a Jane Doe or Joe Doe designation must appear in all public records. Sealed confidential records containing the child's name and necessary biographical information must be kept in order to ensure that no defendant is charged twice.
2. Subsection 1 does not apply to the name and identifying biographical information of:
 - a. A child victim or witness of a criminal offense under title 39 or equivalent ordinance;
and
 - b. A child victim of a fire.

SECTION 3. AMENDMENT. Section 27-20-52 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-20-52. Law enforcement records. Law enforcement records and files ~~concerning~~ of a child alleged or found to be delinquent, unruly, or deprived must be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20-34, the interest of national security requires, or the court otherwise orders in the interest of the child, ~~the~~ these records and files may not be open to public inspection; but inspection of ~~the~~ these records and files is permitted by:

1. A juvenile court having the child before it in any proceeding;
2. Counsel for a party to the proceeding;
3. The officers of public institutions or agencies to whom the child is committed;

4. Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties;
5. A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which the child is committed, or by a parole or pardon board in considering the child's parole or discharge or in exercising supervision over the child; and
6. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4.

Notwithstanding that law enforcement records ~~concerning~~ and files of a child ~~alleged or found to be delinquent, unruly, or deprived~~ are not open to public inspection, nothing in this section may be construed to limit the release of general information not identifying the identity of the child.

SECTION 4. AMENDMENT. Section 39-08-10.1 of the North Dakota Century Code is amended and reenacted as follows:

39-08-10.1. Investigating agency responsible to notify ~~next-of-kin~~ immediate family.

1. In the event of serious injury to or death of any person, under circumstances leading to the notification of a law enforcement agency, the investigating law enforcement agency shall, upon positive identification of the person or persons involved, be responsible for immediately notifying the ~~next-of-kin~~ immediate family of the person or persons seriously injured or deceased, or ~~make~~ making arrangements to have ~~next-of-kin~~ the immediate family notified by clergy or other suitable person.
2. The investigating law enforcement agency may not release to the public the identity of the person or persons seriously injured or deceased until the first of the following events occurs:
 - a. A member of the immediate family has been notified and given an opportunity to notify other immediate family members; or
 - b. Twenty-four hours has elapsed from the time positive identification was made.
3. For purposes of this section, "immediate family" means spouse, parent, child, sibling, or any person who regularly resides in the household of the seriously injured or deceased person.

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 Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2209.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 94 Nays 1 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State