

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1235

Introduced by

Representatives K. Koppelman, Delmore, Heinert, Kasper, Lefor, Roers Jones, Sukut

Senators Armstrong, Holmberg, D. Larson, G. Lee, Unruh

1 A BILL for an Act to create and enact subsections 4 and 5 to section 54-61-02 of the North
2 Dakota Century Code, relating to access to confidential records by the commission on legal
3 counsel for indigents.

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

5 **SECTION 1.** Subsection 4 to section 54-61-02 of the North Dakota Century Code is created
6 and enacted as follows:

7 4. Notwithstanding any provision of state law making the records confidential, but subject
8 to any prohibitions in federal law, in addition to or in lieu of a subpoena, in determining
9 eligibility for public defender services the commission may obtain access, ~~including~~
10 ~~automated access in the case of records maintained in automated databases, relevant~~
11 to making an eligibility determination for indigent defense services, to:

- 12 a. All records of other state and local government agencies relevant to
- 13 determination of eligibility for indigent defense services, including:
 - 14 (1) Vital statistics, including records of marriage, birth, and divorce;
 - 15 (2) Local tax and revenue records, including information on residence address,
 - 16 employer, income, and assets;
 - 17 (3) Records concerning real and titled personal property;
 - 18 (4) Records of occupational and professional licenses and records concerning
 - 19 the ownership and control of corporations, partnerships, and other business
 - 20 entities;
 - 21 (5) Employment security records;
 - 22 (6) Workforce safety and insurance records pursuant to a release signed by an
 - 23 individual ~~identifying the last known address of the individual, wage loss~~
 - 24 ~~benefits, permanent partial impairment benefits, death benefits, or additional~~

~~benefits that individual has received or is entitled to receive from the
organization, and whether and where that individual is employed or as
otherwise provided in section 65-05-32;~~

(7) Records of all agencies administering public assistance programs;

(8) Records of the department of transportation, which access is not subject to
the requirements in section 39-16-03;

(9) Corrections records;

(10) Law enforcement records; and

(11) Subject to an agreement with the state tax commissioner, state tax and
revenue records, including information on residence address, employer,
income, and assets; and

b. Certain information contained in records held by private entities, subject to
safeguards on privacy and information security, consisting of:

(1) The name, address, social security number, and other requested relevant
income or asset information of the individual and the name and address of
the employer of the individual, as appearing in customer records of public
utilities, including cellular and wireless telephone service providers and
cable television companies, pursuant to an administrative subpoena if
requested; and

(2) Information on assets and liabilities of the individual held by financial
institutions.

~~**SECTION 2.** Subsection 5 to section 51-61-02 of the North Dakota Century Code is created
and enacted as follows:~~

~~5. If a government agency or private entity denies the commission access to records
under subsection 4, the denial must include a statement of the legal authority for the
denial.~~

SECTION 2. Subsection 5 to section 54-61-02 of the North Dakota Century Code is created
and enacted as follows:

5. If a government agency or private entity denies the commission access to records
under subsection 4, the denial must include a statement of the legal authority for the
denial.