

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1235

(Representatives K. Koppelman, Delmore, Heinert, Kasper, Lefor, Roers Jones, Sukut)
(Senators Armstrong, Holmberg, D. Larson, G. Lee, Unruh)

AN ACT to create and enact subsections 4 and 5 to section 54-61-02 of the North Dakota Century Code, relating to access to confidential records by the commission on legal counsel for indigents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

4. Notwithstanding any provision of state law making the records confidential, but subject to any prohibitions in federal law, in addition to or in lieu of a subpoena, in determining eligibility for public defender services the commission may obtain access, relevant to making an eligibility determination for indigent defense services, to:
 - a. All records of other state and local government agencies relevant to determination of eligibility for indigent defense services, including:
 - (1) Vital statistics, including records of marriage, birth, and divorce;
 - (2) Local tax and revenue records, including information on residence address, employer, income, and assets;
 - (3) Records concerning real and titled personal property;
 - (4) Records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships, and other business entities;
 - (5) Employment security records;
 - (6) Workforce safety and insurance records pursuant to a release signed by an individual 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 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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1235.

House Vote: Yeas 88 Nays 2 Absent 4

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State