



2023 South Dakota Legislature

Senate Bill 53

Introduced by: **Senator Duhamel**

1 **An Act to exempt records regarding jail inmate disciplinary matters from public**
 2 **inspection and copying.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 1-27-1.5 be AMENDED:**

5 **1-27-1.5.** The following records are not subject to §§ 1-27-1, 1-27-1.1, 1-27-1.3,
 6 and § 1-27-1.23:

- 7 (1) Personal information in records regarding any student, prospective student, or
 8 former student of any educational institution if such records are maintained by and
 9 in the possession of a public entity, other than routine directory information
 10 specified and made public in accordance with 20 U.S.C. § 1232g as the law existed
 11 on January 1, 2009;
- 12 (2) Medical records, including all records of drug or alcohol testing, treatment, or
 13 counseling, other than records of births and deaths. This ~~law~~ subdivision in no way
 14 abrogates or changes existing state and federal law pertaining to birth and death
 15 records;
- 16 (3) Trade secrets, the specific details of bona fide research, applied research, or
 17 scholarly or creative artistic projects being conducted at a school, postsecondary
 18 institution, or laboratory funded in whole or in part by the state, and other
 19 proprietary or commercial information which if released would infringe intellectual
 20 property rights, give advantage to business competitors, or serve no material
 21 public purpose;
- 22 (4) Records which consist of attorney work product or which are subject to any privilege
 23 recognized in article V of chapter 19-19;
- 24 (5) Records developed or received by law enforcement agencies and other public bodies
 25 charged with duties of investigation or examination of persons, institutions, or
 26 businesses, if the records constitute a part of the examination, investigation,

- 1 intelligence information, ~~citizen complaints or inquiries~~ complaint or inquiry,
2 informant identification, or strategic or tactical information used in law
3 enforcement training. ~~However, this~~ This subdivision does not apply to records so
4 developed or received relating to the presence of and amount or concentration of
5 alcohol or drugs in any body fluid of any person, and this subdivision does not
6 apply to a 911 recording or a transcript of a 911 recording if the agency or a court
7 determines that the public interest in disclosure outweighs the interest in
8 nondisclosure. This law in no way abrogates or changes §§ 23-5-7 and 23-5-11 or
9 testimonial privileges applying to the use of information from confidential
10 informants;
- 11 (6) Appraisals or appraisal information and negotiation records concerning the purchase
12 or sale, by a public body, of any interest in real or personal property;
- 13 (7) Personnel information other than salaries and routine directory information.
14 ~~However, this~~ This subdivision does not apply to the public inspection or copying of
15 any current or prior contract with any public employee and any related document
16 that specifies the consideration to be paid to the employee;
- 17 (8) Information pertaining to the protection of public or private property and any person
18 on or within public or private property including:
- 19 (a) Any vulnerability assessment or response plan intended to prevent or
20 mitigate criminal acts;
- 21 (b) Emergency management or response;
- 22 (c) Public safety information that would create a substantial likelihood of
23 endangering public safety or property, if disclosed;
- 24 (d) Cyber security plans, computer or communications network schema,
25 passwords, or user identification names;
- 26 (e) Guard schedules;
- 27 (f) Lock combinations; and
- 28 (g) Any blueprint, building plan, or infrastructure record regarding any building
29 or facility that would expose or create vulnerability through disclosure of
30 the location, configuration, or security of critical systems of the building or
31 facility;
- 32 (9) The security standards, procedures, policies, plans, specifications, diagrams, access
33 lists, and other security-related records of the Gaming Commission and those
34 persons or entities with which the commission has entered into contractual
35 relationships. Nothing in this subdivision allows the commission to withhold from

- 1 the public any information relating to amounts paid persons or entities with which
2 the commission has entered into contractual relationships, amounts of prizes paid,
3 the name of the prize winner, and the municipality, or county where the prize
4 winner resides;
- 5 (10) Personally identified private citizen account payment information, credit information
6 on others supplied in confidence, and customer lists;
- 7 (11) Records or portions of records kept by a publicly funded library which, when
8 examined with or without other records, reveal the identity of any library patron
9 using the library's materials or services;
- 10 (12) Correspondence, memoranda, calendars or logs of appointments, working papers,
11 and records of telephone calls of public officials or employees;
- 12 (13) Records or portions of records kept by public bodies which would reveal the location,
13 character, or ownership of any known archaeological, historical, or paleontological
14 site in South Dakota if necessary to protect the site from a reasonably held fear of
15 theft, vandalism, or trespass. This subdivision does not apply to the release of
16 information for the purpose of scholarly research, examination by other public
17 bodies for the protection of the resource or by recognized tribes, or the federal
18 Native American Graves Protection and Repatriation Act;
- 19 (14) Records or portions of records kept by public bodies which maintain collections of
20 archeological, historical, or paleontological significance which nongovernmental
21 donors have requested to remain closed or which reveal the names and addresses
22 of donors of such articles of archaeological, historical, or paleontological
23 significance unless the donor approves disclosure, except as the records or portions
24 thereof may be needed to carry out the purposes of the federal Native American
25 Graves Protection and Repatriation Act and the Archeological Resources Protection
26 Act;
- 27 (15) Employment applications and related materials, except for applications and related
28 materials submitted by individuals hired into executive or policymaking positions
29 of any public body;
- 30 (16) Social security numbers; credit card, charge card, or debit card numbers and
31 expiration dates; passport numbers; ~~7~~ driver license numbers; or other personally
32 identifying numbers or codes; and financial account numbers supplied to state and
33 local governments by citizens or held by state and local governments regarding
34 employees or contractors;

- 1 (17) Any emergency or disaster response plans or protocols, safety or security audits or
2 reviews, or lists of emergency or disaster response personnel or material; any
3 location or listing of weapons or ammunition; nuclear, chemical, or biological
4 agents; or other military or law enforcement equipment or personnel;
- 5 (18) Any test questions, scoring keys, results, or other examination data for any
6 examination to obtain licensure, employment, promotion or reclassification, or
7 academic credit;
- 8 (19) Personal correspondence, memoranda, notes, calendars or appointment logs, or
9 other personal records or documents of any public official or employee;
- 10 (20) Any document declared closed or confidential by court order, contract, or stipulation
11 of the parties to any civil or criminal action or proceeding, except as provided under
12 § 1-27-1.23;
- 13 (21) Any list of names or other personally identifying data of occupants of camping or
14 lodging facilities from the Department of Game, Fish and Parks;
- 15 (22) Records which, if disclosed, would constitute an unreasonable release of personal
16 information;
- 17 (23) Records which, if released, could endanger the life or safety of any person;
- 18 (24) Internal agency record or information received by agencies that are not required to
19 be filed with such agencies, if the records do not constitute final statistical or factual
20 tabulations, final instructions to staff that affect the public, or final agency policy
21 or determinations, or any completed state or federal audit and if the information is
22 not otherwise public under other state law, including chapter 15-15A and § 1-26-
23 21;
- 24 (25) Records of individual children regarding commitment to the Department of
25 Corrections pursuant to chapters 26-8B and 26-8C;
- 26 (26) Records regarding inmate disciplinary matters pursuant to § 1-15-20, and records
27 regarding jail inmate disciplinary matters pursuant to § 24-11-23;
- 28 (27) Any other record made closed or confidential by state or federal statute or rule or
29 as necessary to participate in federal programs and benefits;
- 30 (28) A record of a settlement agreement or litigation regarding investment or bankruptcy
31 and involving the South Dakota Investment Council or the South Dakota
32 Retirement System, or both, unless the settlement or litigation results in a finding
33 of liability against the council or system, or both; and

- 1 (29) A record of a settlement agreement or litigation regarding medical services
- 2 involving any county hospital established under chapter 34-8 or any municipal
- 3 hospital established under chapter 34-9.