

HOUSE BILL NO. 1486

Introduced by

Representatives Christensen, Becker, Ertelt, Jones, B. Koppelman, M. Ruby, Vetter

Senator D. Larsen

1 A BILL for an Act to amend and reenact sections 51-34-02, 51-34-04, and 51-34-05 of the North
2 Dakota Century Code, relating to limitations on the authorized access to telephone records and
3 the sale or procurement of telephone records; to provide a penalty; and to provide for
4 application.

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

6 **SECTION 1. AMENDMENT.** Section 51-34-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **51-34-02. Unauthorized or fraudulent procurement, sale, or receipt of telephone**
9 **records prohibited - Criminal penalties - Restitution.**

10 1. A person may not:

- 11 a. Procure, attempt to procure, solicit, or conspire with another to procure, a
12 telephone record of any resident of this state without ~~the authorization of a signed~~
13 release by the customer or by fraudulent, deceptive, or false means;
14 b. Sell, or attempt to sell, a telephone record of any resident of this state without the
15 customer's ~~authorization~~ signed release; or
16 c. Receive a telephone record of any resident of this state when such record has
17 been obtained without the customer's ~~authorization~~ signed release or by
18 fraudulent, deceptive, or false means.

19 2. Any person who knowingly violates this section is guilty of a class C felony.

20 3. In addition to any other punishment, a person found guilty of an offense under this
21 section shall make restitution for any financial loss sustained by the customer or any
22 other person who suffered financial loss as the direct result of the offense.

23 **SECTION 2. AMENDMENT.** Section 51-34-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **51-34-04. ~~Nonapplicability to valid~~Valid legal process and law enforcement.**

2 1. ~~This chapter does not apply to any person acting pursuant to~~Except as otherwise
3 provided by law, a telephone company may not permit access to, disclose, or provide
4 a telephone record to any person without a valid court order, warrant, or subpoena, a
5 subpoena by the attorney general pursuant to this chapter or chapter 51-15, the
6 customer's signed release authorizing the disclosure or permitting access to the
7 record related to the request, or other valid legal process.

8 2. This chapter does not prevent any action by a law enforcement agency, or any officer,
9 employee, or agent of such agency, to obtain telephone records in connection with the
10 performance of the official duties of the agency in accordance with subsection 1 or as
11 specifically authorized by law.

12 **SECTION 3. AMENDMENT.** Section 51-34-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **51-34-05. Permitted use by telephone companies.**

15 1. This chapter does not prohibit a telephone company from obtaining, using, disclosing,
16 or permitting access to any telephone record, either directly or indirectly through its
17 agents or contractors:

18 a. As otherwise authorized by law;

19 b. With the lawful consent of the customer documented in a signed release
20 authorizing the disclosure or permitting access to the record under the relevant
21 circumstances;

22 c. As may be necessarily incident to the rendition of the service or to the protection
23 of the rights or property of the telephone company, or to protect the customer of
24 those services and other carriers from fraudulent, abusive, or unlawful use of, or
25 subscription to, such services;

26 d. To a governmental entity, if the telephone company reasonably believes that an
27 medical emergency involving immediate danger of death or serious physical
28 injury occurred to any person an individual which justifies disclosure of the
29 information; or

1 e. To the national center for missing and exploited children, in connection with a
2 report submitted thereto under section 227 of the Victims of Child Abuse Act of
3 1990.

4 2. This chapter does not apply to or expand upon the obligations and duties of any
5 telephone company to protect telephone records beyond those otherwise established
6 by federal law or state law or both as set forth in section 51-34-06.

7 3. This chapter does not apply to a telephone company, and its agents or
8 representatives, who reasonably and in good faith act pursuant to subsection 2,
9 notwithstanding any later determination that the action was not in fact authorized.

10 **SECTION 4. APPLICATION.** This Act applies to telephone service contracts and
11 agreements entered after July 31, 2021.