

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS65225-RU-21 (03/10)

Short Title: Protect Confidential Info of Public Agencies.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROTECT CONFIDENTIAL INFORMATION OF PUBLIC AGENCIES
AND SUBDIVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1 is amended by adding a new subsection to read:

"(c) A document, paper, letter, map, book, photograph, film, sound recording, magnetic or other tape, electronic data-processing record, artifact, or other documentary material, regardless of physical form or characteristics, is not a public record within the meaning of this section if it is in draft form, has been retained solely by its author and not distributed to anyone else other than the author's clerical support staff."

SECTION 2. G.S. 132-1.1(a) reads as rewritten:

~~"(a) Confidential Communications. — Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney at law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected. Such written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body.~~

1 Attorney-Client Privilege. – The attorney-client privilege applies to agencies of the
2 State and its subdivisions to the same extent it applies to private parties. All
3 communications within the privilege, whether to or from employee, individual officials,
4 or public bodies of such agencies or subdivisions are not public records as defined in
5 G.S. 132-1."

6 **SECTION 3.** G.S. 132-1.2 is amended by adding the following new
7 subdivisions to read:

8 "(5) Reveals the identity, social security number, address, phone number,
9 bank account, or employer of a donor of a gift or contribution made to
10 a public agency unless the donor gives permission for disclosure.

11 (6) Reveals the identity of or contact information for a juvenile enrolled in
12 a recreational program operated by an agency of the State or one of its
13 subdivisions.

14 (7) Reveals the home or private cellular telephone number of any
15 employee of a public agency without the consent of the employee."

16 **SECTION 4.** Chapter 132 of the General Statutes is amended by adding a
17 new section to read:

18 **"§ 132-1.8. Volunteer records.**

19 (a) The records comprising a volunteer file of an agency or subdivision of the
20 State are not public records as provided in this Chapter. These records shall be open for
21 inspection only to the following individuals:

22 (1) With the exception of letters or other materials of reference, the
23 volunteer, former volunteer, individual who applied to be a volunteer,
24 or that individual's properly authorized agent who may examine the
25 individual's file in its entirety at any reasonable time.

26 (2) The volunteer's supervisory personnel.

27 (3) A party to a lawsuit, by authority of a subpoena or proper court order,
28 only to the extent authorized by and in accordance with the subpoena
29 or court order.

30 (b) An agency or subdivision may also release or permit the inspection of a
31 volunteer file, except as prohibited by State or federal law if, prior to the release of the
32 information or inspection of the file, both the following apply:

33 (1) The department head of an agency or chief executive officer of a
34 subdivision determines that release of the information or inspection of
35 the file is essential to maintaining either:

36 a. Public confidence in the administration of city services.

37 b. The level or quality of services provided by the city.

38 (2) The department head of an agency or chief executive officer of a
39 subdivision determines that there is a substantial showing of the
40 criteria set forth in subdivision (1) of this subsection. The written
41 finding shall be a public record.

42 (c) A volunteer shall be notified at the time the individual applies to volunteer
43 that the agency or subdivision may maintain a volunteer file on the individual, and that
44 information in that file may be open to inspection in accordance with this section.

1 (d) This section shall not be construed to require an agency or subdivision to
2 maintain records on volunteers, former volunteers, or individuals applying to be
3 volunteers.

4 (e) As used in this section, the following terms mean:

5 (1) Chief executive. – The city manager of a municipality, or the mayor of
6 a municipality that does not have a city manager, and the county
7 manager of a county.

8 (2) Volunteer. – An individual who provides services to an agency or
9 subdivision of the State without expectation of compensation and with
10 the understanding that the agency or subdivision of the State is under
11 no obligation to continue accepting those services or to compensate the
12 volunteer for them.

13 (3) Volunteer file. – Any information collected by an agency or
14 subdivision of the State regarding volunteers, former volunteers, and
15 individuals applying to be volunteers that relates to the individual's
16 application, selection or nonselection, performance, disciplinary
17 action, or termination, whenever that information is located or in
18 whatever form it is maintained."

19 **SECTION 5.** G.S. 132-6.2 is amended by adding a new subsection to read:

20 "(f) Notwithstanding subsection (a) of this section, a public agency shall not be
21 required to provide a list of e-mail addresses in electronic or other form so long as the e-
22 mail addresses on the list are available in a publicly accessible directory."

23 **SECTION 6.** Chapter 116 of the General Statutes is amended by adding a
24 new Article to read:

25 "Article 33.

26 "Research Subject Identities, Data, and Analysis Protection.

27 "§ 116-270. Confidential information.

28 (a) Release of Research Records. – Public records as defined in G.S. 132-1 shall
29 not include a record, other than a financial or administrative record, that is produced or
30 collected by or for faculty, staff, or students of a constituent institution of The
31 University of North Carolina in the conduct of or result of study, research, analysis, or
32 creative work on an educational, commercial, scientific, technical, artistic, literary,
33 pedagogical, aesthetic, or scholarly issue, regardless of whether the study, research, or
34 work was sponsored by the institution alone or in coordination with a separate
35 governmental body or private entity, until a reasonable opportunity is provided for the
36 record to be published, protected under the laws applicable to intellectual property, or
37 publicly released in a timely manner, in a forum intended to convey the information to
38 the academic community or the intended audience. Research, data, analysis, or other
39 work will be released pursuant to the policies of the Board of Governors of The
40 University of North Carolina.

41 (b) Research Subject Identity. – Public records as defined in G.S. 132-1 shall not
42 include a record containing the identity of participants in or subjects of studies,
43 research, or analysis on an educational, commercial, scientific, technical, artistic, or

1 scholarly issue that is produced or collected by or for faculty, staff, or students of a
2 constitute institution of The University of North Carolina."

3 **SECTION 7.** G.S. 143-318.11(a)(5) reads as rewritten:

4 "(5) To establish, or to instruct the public body's staff or negotiating agents
5 concerning the position to be taken by or on behalf of the public body
6 in negotiating (i) the price and other material terms of a contract or
7 proposed contract for the acquisition of real property by purchase,
8 option, exchange, or lease; or (ii) the amount of compensation and
9 other material terms of an employment contract or proposed
10 employment contract. As used in this subdivision, "other material
11 terms" includes the location or locations of the property to be acquired,
12 the identity of the owner or owners of the property to be acquired, and
13 the intended use or uses of the property to be acquired."

14 **SECTION 8.** This act is effective when it becomes law.