



2024 South Dakota Legislature

Rick Weible Proposed Bill #1

(if not passed in 2024, if elected, Rick Weible will introduce in 2025)

AN ACT

1 **An Act to provide transparency throughout government.**

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

3 **Section 1. That § 1-27-1.5 be Amended:**

4 1-27-1.5 Certain records not open to inspection and copying.

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

6 (1) Personal information in records regarding any student, prospective student, or former student of
7 any educational institution if such records are maintained by and in the possession of a public entity,
8 other than routine directory information specified and made public in accordance with 20 U.S.C.
9 § 1232g as the law existed on January 1, 2009;

10 (2) Medical records, including all records of drug or alcohol testing, treatment, or counseling, other than
11 records of births and deaths. This subdivision in no way abrogates or changes existing state and federal
12 law pertaining to birth and death records;

13 (3) Trade secrets, the specific details of bona fide research, applied research, or scholarly or creative artistic
14 projects being conducted at a school, postsecondary institution, or laboratory funded in whole or in
15 part by the state, and other proprietary or commercial information which if released would infringe
16 intellectual property rights, give advantage to business competitors, or serve no material public
17 purpose;

18 (4) Records which consist of attorney work product or which are subject to any privilege recognized in
19 article V of chapter 19-19;

20 (5) Records developed or received by law enforcement agencies and other public bodies charged with
21 duties of investigation or examination of persons, institutions, or businesses, if the records constitute
22 a part of the examination, investigation, intelligence information, citizen complaint or inquiry,
23 informant identification, or strategic or tactical information used in law enforcement training. This
24 subdivision does not apply to records so developed or received relating to the presence of and amount
25 or concentration of alcohol or drugs in any body fluid of any person, and this subdivision does not
26 apply to a 911 recording or a transcript of a 911 recording if the agency or a court determines that the
27 public interest in disclosure outweighs the interest in nondisclosure. This law in no way abrogates or
28 changes §§ 23-5-7 and 23-5-11 or testimonial privileges applying to the use of information from
29 confidential informants;

30 (6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public
31 body, of any interest in real or personal property;

32 (7) Personnel information other than salaries and routine directory information. This subdivision does not
33 apply to the public inspection or copying of any current or prior contract with any public employee
34 and any related document that specifies the consideration to be paid to the employee;

35 (8) Information pertaining to the protection of public or private property and any person on or within public
36 or private property including:

37 (a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

38 (b) Emergency management or response;

39 (c) Public safety information that would create a substantial likelihood of endangering public safety
40 or property, if disclosed;

41 (d) Cyber security plans, computer or communications network schema, passwords, or user
42 identification names;

43 (e) Guard schedules;

44 (f) Lock combinations; and

- (g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility;
- (9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Gaming Commission and those persons or entities with which the commission has entered into contractual relationships. Nothing in this subdivision allows the commission to withhold from the public any information relating to amounts paid persons or entities with which the commission has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the municipality, or county where the prize winner resides;
- (10) Personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;
- (11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;
- ~~(12) Correspondence, memoranda, calendars or logs of appointments, working papers, and records of telephone calls of public officials or employees;~~
- ~~(13)~~(12) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in South Dakota if necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This subdivision does not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, or the federal Native American Graves Protection and Repatriation Act;
- ~~(14)~~(13) Records or portions of records kept by public bodies which maintain collections of archeological, historical, or paleontological significance which nongovernmental donors have requested to remain closed or which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the federal Native American Graves Protection and Repatriation Act and the Archeological Resources Protection Act;
- ~~(15)~~(14) Employment applications and related materials, except for applications and related materials submitted by individuals hired into executive or policymaking positions of any public body;
- ~~(16)~~(15) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; passport numbers; driver license numbers; or other personally identifying numbers or codes; and financial account numbers supplied to state and local governments by citizens or held by state and local governments regarding employees or contractors;
- ~~(17)~~(16) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel;
- ~~(18)~~(17) Any test questions, scoring keys, results, or other examination data for any examination to obtain licensure, employment, promotion or reclassification, or academic credit;
- ~~(19)~~(18) Personal correspondence, memoranda, notes, calendars or appointment logs, or other personal records or documents of any public official or employee;
- ~~(20)~~(19) Any document declared closed or confidential by court order, contract, or stipulation of the parties to any civil or criminal action or proceeding, except as provided under § 1-27-1.23;
- ~~(21)~~(20) Any list of names or other personally identifying data of occupants of camping or lodging facilities from the Department of Game, Fish and Parks;
- ~~(22)~~(21) Records which, if disclosed, would constitute an unreasonable release of personal information;
- ~~(23)~~(22) Records which, if released, could endanger the life or safety of any person;
- ~~(24)~~(23) Internal agency record or information received by agencies that are not required to be filed with such agencies, if the records do not constitute final statistical or factual tabulations, final instructions

94 to staff that affect the public, or final agency policy or determinations, or any completed state or federal
95 audit and if the information is not otherwise public under other state law, including chapter [15-15A](#)
96 and § [1-26-21](#);

97 ~~(25)~~(24) Records of individual children regarding commitment to the Department of Corrections pursuant
98 to chapters [26-8B](#) and [26-8C](#);

99 ~~(26)~~(25) Records regarding inmate disciplinary matters pursuant to § [1-15-20](#), and records regarding jail
100 inmate disciplinary matters pursuant to § [24-11-23](#);

101 ~~(27)~~(26) Any other record made closed or confidential by state or federal statute or rule or as necessary to
102 participate in federal programs and benefits;

103 ~~(28)~~(27) A record of a settlement agreement or litigation regarding investment or bankruptcy and involving
104 the South Dakota Investment Council or the South Dakota Retirement System, or both, unless the
105 settlement or litigation results in a finding of liability against the council or system, or both; and

106 ~~(29)~~(28) A record of a settlement agreement or litigation regarding medical services involving any county
107 hospital established under chapter [34-8](#) or any municipal hospital established under chapter [34-9](#).
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