

# CRIMES AND PUNISHMENTS

## CHAPTER 126

S. B. No. 66  
(Wadeson and Ringsak)

### BOOK SALVAGE INDUSTRY AT PENITENTIARY

#### AN ACT

Authorizing the establishment of a book salvage industry at the state penitentiary and making an appropriation therefor.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Employment of Penitentiary Inmates in Book Salvage; Receipts.)** The state board of administration is authorized to employ prisoners of the state penitentiary, not otherwise employed, in a book salvage industry, and to establish such rules and regulations for its operation as is deemed necessary, including schedules of charges to be made for the services performed. The warden of the penitentiary, under the direction of the board of administration, shall be authorized to procure the tools and equipment necessary to carry on and conduct the work of the industry subject to limitations of the legislative appropriation. The warden shall keep a true and accurate account of all receipts of said industry and the same shall be deposited with the state treasurer to the credit of the general fund.

**§ 2. Appropriations.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of seventy-five thousand dollars, or so much thereof as may be necessary for the purpose of purchasing the equipment and materials necessary to effectuate the provisions and purposes of this Act.

Approved March 10, 1959.

## CHAPTER 127

S. B. No. 116  
(Longmire, Luick)

REGULATION OF USE OF CIGARETTES, CIGARS  
AND TOBACCO

## AN ACT

Regulating the use of cigars, cigarettes, pipes, and tobacco so as not to endanger life or property, and providing a penalty.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Use of Cigarettes, Cigars, Pipes, and Tobacco; Penalty.)**

It shall be unlawful for any person, who by smoking or attempting to light cigarettes, cigars, pipes or tobacco, or otherwise, to set fire to any fittings, furnishings, or part of any hotel, motel, rooming house, lodging house, or other place of public abode, so as to endanger life or property in any way, or to any extent. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

**§ 2. Printed Notice To Be Posted.)** The state fire marshal shall print and distribute copies of this Act to all hotels, motels, rooming houses, lodging houses, and other places of public abode in this state, and such copies shall be conspicuously displayed in each room of every hotel, motel, rooming house, lodging house, or other place of public abode located in this state.

Approved March 3, 1959.

## CHAPTER 128

H. B. No. 594  
(Brown, Wheeler, Vinje,  
(Knudsen, Mueller, Goebel)

## SHOPLIFTING

## AN ACT

To exempt from civil or criminal liability any peace officer, merchant or merchant's employee who takes into custody or detains any person who he has probable cause to believe has committed larceny of goods held for sale.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Shoplifting; Arresting Person Exempt from Liability.)**

1. A peace officer, or a merchant, or a merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person and that he can recover them by taking the person into custody, may, for the purpose of attempting to effect such recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody and detention by a peace officer, merchant, or merchant's employee shall not render such peace officer, merchant, or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.
2. Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny in retail or wholesale establishments.
3. A merchant or a merchant's employee who causes such arrest as provided for in subsection 1 of this section of a person for larceny of goods held for sale shall not be criminally or civilly liable for false arrest or false imprisonment where the merchant or merchant's employee has probable cause for believing that the person arrested committed larceny of goods held for sale.

Approved March 14, 1959.



## CHAPTER 129

S. B. No. 211  
(Murphy)

## TRANSFER OF PENITENTIARY INMATES

## AN ACT

Authorizing the governor to enter into contracts with the attorney general of the United States in order that inmates of the state penitentiary needing special care not available at the penitentiary may be transferred to a federal institution where such care is available.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Governor May Contract for Transfer to Federal Institution.)** When any person convicted of a criminal offense under the laws of this state and confined in the state penitentiary is found to be in need of special treatment, care, custody or training which cannot be provided for at the state penitentiary, the governor of this state shall be authorized to contract with the attorney general or other proper official of the United States, pursuant to the provisions of any federal law, for transfer of such inmate to a federal institution in order that such inmate may receive the required special treatment, care, custody or training. Such transfer shall be effected only after the warden of the penitentiary has submitted a request for such transfer to the state board of pardons, and the board of pardons has approved the request. Upon approval by the board of pardons the governor shall petition the attorney general or other proper official of the United States asking that the transfer be made. When any such transfer is made, the state of North Dakota shall reimburse the federal government in full for expenses involved in the transfer and care of such person from funds appropriated for the operation and maintenance of the penitentiary.

Approved March 10, 1959.

## CHAPTER 130

S. B. No. 75  
(Erickstad)

## DISPOSITION OF FINES, FORFEITURES AND PENALTIES

## AN ACT

To amend and reenact section 12-0113 of the North Dakota Revised Code of 1943 relating to the disposition of moneys resulting from fines, forfeitures, and penalties for violations of state laws and disposition of moneys resulting from forfeiture of bail.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 12-0113 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-0113. Disposition of Fines, Forfeitures, Pecuniary Penalties and Bail Forfeitures.)** All fines, forfeitures, and pecuniary penalties prescribed as a punishment for a violation of state laws, when collected, shall be paid into the treasury of the proper county to be added to the state school fund. When any bail bond or other property or money deposited as bail is forfeited to the state, the proceeds collected therefrom shall be paid over to the treasurer of the county whose officers originally instituted the action and credited to the general fund of the county. In the event that the attorney general of the state of North Dakota originally instituted the action, the bail bond, money or other property forfeited shall be paid over to the proper state official and credited to the state school fund.

Approved March 4, 1959.

## CHAPTER 131

H. B. No. 703

(Aamoth, Burk, Muggli, Neukircher, Baldwin, Goebel,  
(Frank, Poling and Fitch)

## THEATER OPERATION ON SUNDAY

## AN ACT

To amend and reenact section 12-2120 of the North Dakota Revised Code of 1943, relating to Sunday hours of theaters.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 12-2120 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-2120. Operation of Theaters and Movies on Sunday Lawful.)** The operation of theaters showing motion pictures and other theatrical performances for profit or otherwise after 1:15 o'clock p.m. on Sunday is lawful.

Approved March 12, 1959.

## CHAPTER 132

H. B. No. 575

(Muggli)  
(By request)

## DEFINITION OF ADULTERY

## AN ACT

To amend and reenact section 12-2209 of the North Dakota Revised Code of 1943 relating to the definition of adultery.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 12-2209 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-2209. Adultery Defined.)** Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife. When the intercourse is between a married woman and a man who is unmarried the man also is guilty of adultery.

Approved March 9, 1959.



## CHAPTER 133

S. B. No. 202  
(Brooks)

## GRAND AND PETIT LARCENY

## AN ACT

To amend and reenact section 12-4003 of the North Dakota Revised Code of 1943, relating to amount of money which constitutes petit and grand larceny.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 12-4003 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-4003. Grand Larceny and Petit Larceny Defined.)** Grand larceny is larceny committed in the following cases:

1. When the property taken is of value exceeding one hundred dollars;
2. When such property, although not of value exceeding one hundred dollars, is taken from the person of another; or
3. When the property taken is any horse, mule, cow, calf, or other neat cattle, or any sheep, swine, or poultry, the property of another.

Larceny in other cases is petit larceny.

Approved March 10, 1959.

## CHAPTER 134

H. B. No. 675  
(Haugland, Beede, Esterby, Burk)

## CHILDREN PAROLED TO FOSTER HOMES

## AN ACT

To amend and reenact section 12-5202 of the North Dakota Revised Code of 1943, relating to paroles from the state training school; and providing for the parole of children into licensed foster homes.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 12-5202 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-5202. Parole on Recommendation of Superintendent.)** No parole shall be granted to any person committed to the state training school or placed under the guardianship, control and custody of the superintendent thereof unless the superintendent recommends the parole to the board of administration and some suitable person will receive the person paroled under such conditions as may be approved by the superintendent of the school. Nothing herein contained shall prevent the parole of any person into his own home, or with the approval of the public welfare board of North Dakota or its duly authorized agent, into a licensed foster home under one of the welfare programs administered by the public welfare board of North Dakota.

Approved March 2, 1959.

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## CHAPTER 135

H. B. No. 730  
(Wheeler)

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### SENTENCE IMPOSITION, PROBATION

#### AN ACT

To amend and reenact sections 12-5313, 12-5314 and 12-5315 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the suspension of the imposition of sentence, when authorized, placing the defendant under the control of board of pardons, sponsor of defendant, and when probation may be terminated, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 12-5313 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-5313. Imposition of Sentence Suspended; When Authorized.)** When a defendant has been found guilty of a crime, whether or not for the first time, excepting the crimes mentioned in section 12-5302, the court having jurisdiction thereof, including a justice of the peace, upon application or its own motion may, in its discretion, suspend the imposing of the sentence and may direct that such suspension continue for a definite period of time, not exceeding five years, and upon such terms and conditions as it may determine.

**§ 2. Amendment.)** Section 12-5314 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:



**12-5314. Defendant Placed Under Control of Board of Pardons: Sponsor of Defendant.)** In the event the court shall suspend the imposition of sentence of a defendant, the court shall place the defendant on probation during the period of suspension. During the period of probation the defendant shall be under the control and management of the board of pardons, subject to the same rules and regulations as apply to persons placed on probation under suspended sentence as provided in chapter 12-53 of this Code. The board of pardons shall assume and undertake the supervision of said probationer, promulgating rules and regulations for the conduct of such person during the period of his probation, except that if the defendant was found guilty of a misdemeanor, the court by order may waive the supervision of the defendant by the board of pardons, and direct that the defendant shall make his monthly reports to the state's attorney of the county in which the action is pending. The court may designate the clerk of district court, the sheriff, the state's attorney, or any other person to act as sponsor for the defendant. It shall be the duty of the sponsor to assist the probationer in making his monthly reports to the board of pardons or to the state's attorney, to report any violations, and to counsel and direct said probationer whenever possible.

**§ 3. Amendment.)** Section 12-5315 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-5315. When Probation May Be Terminated.)** Whenever the board of pardons, the court, or the state's attorney, shall have reason to believe such defendant is violating the terms of his probation, such probationer shall be brought before the court wherein the probation was granted. For this purpose any peace officer or state parole officer may re-arrest the probationer without warrant or other process. The court may thereupon, in its discretion, without notice revoke and terminate such probation, pronounce judgment, and deliver defendant to the sheriff to be transferred to the penitentiary or other state institution in accordance with the sentence imposed.

**§ 4. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1959.