

Fifty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1158

Introduced by

Judiciary Committee

(At the request of the Labor Commissioner)

1 A BILL for an Act to amend and reenact section 14-02.5-31, subsection 1 of section 14-02.5-32,
2 and section 14-02.5-36 of the North Dakota Century Code, relating to labor department
3 administrative hearings and penalties and representation in enforcement actions.

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

5 **SECTION 1. AMENDMENT.** Section 14-02.5-31 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **14-02.5-31. Administrative hearing.**

8 1. If a timely election is not made under section 14-02.5-30, the department shall
9 provide for a hearing on the charge. The attorney general, at the request of and on
10 behalf of the department, may participate in and advocate in favor of the
11 department's finding of probable cause. The aggrieved person may be
12 represented by private counsel. Except as provided in this section, chapter 28-32
13 governs a hearing and an appeal of a hearing. A hearing under this section on an
14 alleged discriminatory housing practice may not continue after the beginning of the
15 trial of a claim for relief commenced by the aggrieved person under federal or state
16 law seeking relief with respect to the discriminatory housing practice.

17 2. A charge issued by the department is prima facie evidence of a violation of this
18 chapter.

19 3. If a claim filed by an aggrieved person proceeds to a hearing, the aggrieved person
20 is a party in the hearing. Neither the department nor the attorney general
21 represents an aggrieved person at a hearing under this chapter. The attorney
22 general, at the request of and on behalf of the department, may participate in the
23 hearing and advocate in favor of the department's finding of probable cause. The

1 aggrieved person may be represented by private counsel in any action or
2 proceeding under this chapter.

- 3 4. If a claim filed by the department proceeds to a hearing, the department is a party
4 in the hearing. The attorney general represents the department in any action or
5 proceeding under this chapter.

6 **SECTION 2. AMENDMENT.** Subsection 1 of section 14-02.5-32 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. If the department determines at a hearing under section 14-02.5-31 that a
9 respondent has engaged in or is about to engage in a discriminatory housing
10 practice, the department may order the appropriate relief, including actual
11 damages, reasonable attorney's fees, court costs, and other injunctive or equitable
12 relief. Neither the department nor an administrative hearing officer may order
13 punitive damages under this chapter.

14 **SECTION 3. AMENDMENT.** Section 14-02.5-36 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **14-02.5-36. Attorney general action for enforcement.** If a timely election is made
17 under section 14-02.5-30, the department shall authorize and the attorney general shall file not
18 later than the thirtieth day after the date of the election a claim for relief seeking relief ~~on behalf~~
19 for the benefit of the aggrieved person in a district court. In any action for enforcement under
20 this section, the attorney general represents the department. Venue for an action is in the
21 county in which the alleged discriminatory housing practice occurred or is about to occur. An
22 aggrieved person may intervene in the action. If the court finds that a discriminatory housing
23 practice has occurred or is about to occur, the court may grant as relief any relief that a court
24 may grant in a civil action under sections 14-02.5-39 through 14-02.5-44. If monetary relief is
25 sought for the benefit of an aggrieved person who does not intervene in the civil action, the
26 court may not award the monetary relief if that aggrieved person has not complied with
27 discovery orders entered by the court.