

Sixtieth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2286**

Introduced by

Senators Flakoll, Fiebiger, Triplett

Representative Hawken

1 A BILL for an Act to amend and reenact sections 40-18-15 and 40-18-15.1 of the North Dakota  
2 Century Code, relating to prosecutions in municipal court for violations of city ordinances in  
3 home rule cities.

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

5 **SECTION 1. AMENDMENT.** Section 40-18-15 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **40-18-15. Trials in nonjury cases arising under the ordinances of a city - Appeals.**

8 1. An action for the violation of a city ordinance for which the right to a jury trial does  
9 not otherwise exist or in which the defendant has timely and appropriately waived a  
10 right to a jury trial in writing pursuant to rules of the supreme court may be tried and  
11 determined by the municipal judge without the intervention of a jury. In the event of  
12 an adverse verdict in a municipal court trial, a defendant may appeal as provided in  
13 section 40-18-19, but a waiver of jury trial in the municipal court proceeding also  
14 constitutes a waiver of jury trial in the district court.

15 2. The governing body of a home rule city may establish, by ordinance, a procedure  
16 through which an alleged violation of a city ordinance may be tried and determined  
17 by the municipal judge without the intervention of a jury. In the event of an adverse  
18 verdict in a municipal court trial, a defendant may appeal as provided in section  
19 40-18-19. If the offense that the defendant is appealing is punishable as an  
20 infraction, the defendant has a right to trial by the court, but not by jury. If the  
21 offense that the defendant is appealing is punishable as a class B misdemeanor,  
22 the defendant may request a jury trial.

23 **SECTION 2. AMENDMENT.** Section 40-18-15.1 of the North Dakota Century Code is  
24 amended and reenacted as follows:

1           **40-18-15.1. Transfer to district court - Expenses of prosecution - Division of**  
2 **funds and expenses between city, county, and state.** A Unless restricted by section  
3 40-18-15, a matter may be transferred to district court for trial ~~only~~ if within twenty-eight days  
4 after arraignment the defendant has requested in writing to transfer the case to district court  
5 and to exercise the defendant's right to a jury trial. ~~The~~ In a matter transferred or appealed to  
6 district court, the city shall provide a prosecuting attorney and, in the case of any indigent  
7 defendant, a defense attorney. The city may contract with the county, state, or any individual or  
8 entity for prosecution or defense services. In the contract, the city, county, and state may agree  
9 to a division of all fees, fines, costs, forfeitures, and any other monetary consideration collected  
10 from cases transferred under this section, which must be paid to the city and county treasury  
11 and state general fund at least once each quarter. At the time of payment, the clerk of district  
12 court shall account under oath to the city auditor, county, and state treasurer for all money  
13 collected. In the contract the city, county, and state may also agree to a division of expenses,  
14 including jury and witness expenses, related to cases transferred under this section. In the  
15 absence of a contract all fees, fines, costs, forfeitures, and any other monetary consideration  
16 collected from transferred cases must be deposited in the state general fund.