

June 2007

TITLE 12

Corrections, Parole, and Probation

Summary of Bills Enacted by 2007 Legislative Assembly

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 12. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to corrections, parole, and probation may be classified in these subject areas: Department of Corrections and Rehabilitation; criminal history background checks; and miscellaneous.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

House Bill No. 1015 provides that if the balance in the probationer violation transportation fund exceeds \$75,000 on the June 30 of the immediately preceding fiscal year, the Department of Corrections and Rehabilitation is required to waive the county's portion of the transfer of probationer fee.

House Bill No. 1077 authorizes the warden to institute and maintain a uniform system of fines and restitution for violations of department rules and for instances in which an offender causes personal injury or property damage. The bill authorizes the warden to deduct the fine or restitution from any funds credited an offender's Penitentiary account or Bank of North Dakota two-signature account. The bill directs the warden to pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the Penitentiary, when the inmate is released on parole or discharged from the Penitentiary.

House Bill No. 1116 provides that the Department of Corrections and Rehabilitation may authorize a correctional facility to regularly confine inmates for more than one year if the correctional facility meets certain criteria established by the department. The bill also sets forth certain prohibited acts with respect to an individual detained in a correctional facility, including the manufacture, delivery, or possession of controlled substances, alcohol, and weapons. The bill describes the information that must be contained in correctional facility inspection reports. The bill repeals NDCC Section 12-44.1-27 relating to corrective action and enforcement for correctional facilities.

Senate Bill No. 2029 provides that except for an offense for which the law requires mandatory incarceration, electronic home detention or global positioning system monitoring may be used for certain adult and juvenile offenders. The bill authorizes, subject to the availability of funding, the court, or with the approval of the court, the Department of Corrections and Rehabilitation or a correctional facility, to implement an electronic home detention and global positioning system monitoring program.

CRIMINAL HISTORY BACKGROUND CHECKS

House Bill No. 1490 requires the Agriculture Commissioner to request a criminal history record check for each applicant for a license to grow or process industrial hemp.

Senate Bill No. 2037 requires the Chief Information Officer of the Information Technology Department to request a criminal history record check for certain individuals.

Senate Bill No. 2260 provides for criminal history record information. The bill adds a number of agencies and occupations for which a criminal history background check may be required, including the State Board of Nursing, the State Board of Pharmacy, the State Real Estate Commission, the North Dakota Board of Social Work Examiners, the North Dakota University System, the Office of Management and Budget, the Department of Corrections and Rehabilitation, a city or county that operates a correctional facility for certain applicants and employees, the governing board of a public or nonpublic

school for certain employees, the Racing Commission for license applicants, and the district court for a petition to change a name.

MISCELLANEOUS

House Bill No. 1092 changes references, for purposes of proceedings under the Uniform Juvenile Court Act, from "juvenile supervisor" to "director of juvenile court."

House Bill No. 1482 sets forth a procedure for the admission of chronically or terminally ill inmates to health care facilities. The bill provides that the administrator of the facility to which the offender is to be admitted must be provided with certain information, including any available risk assessment information regarding the offender's likelihood of reoffending.

House Bill No. 1504 provides that a tribal police officer of a federally recognized Indian tribe in this state who meets the requirements of the Peace Officer Standards and Training Board is eligible for a peace officer license or part-time peace officer license. The bill provides that a tribal officer who is a member of a police force of a tribal government and who is licensed by the board may exercise the powers of a peace officer of this state within the exterior boundaries of the reservation or off the reservation in accordance with the terms and conditions of the special deputy appointment, the employment agreement, or the agreement between the state or political subdivision and the tribe.

Senate Bill No. 2025 provides that a correctional facility may authorize an employee to provide medication to an inmate of a correctional facility if the employee is licensed or registered under NDCC Title 43 and is providing the medication within the scope of practice of the profession for which the individual is licensed or registered or the correctional facility staff member has successfully completed medication administration training that has been preapproved by the State Board of Nursing.

Senate Bill No. 2357 provides that with respect to the housing of inmates, an adult held under a delinquency proceeding may be held with juveniles and a juvenile transferred or waived to adult court on a felony criminal offense may be housed with adults in a jail or regional correctional facility.