

June 2007

TITLE 31

Judicial Proof

Summary of Bills Enacted by 2007 Legislative Assembly

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 31. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1122 provides that the Commission on Legal Counsel for Indigents rather than the Supreme Court is responsible for paying for witness fees and expenses for witnesses in those cases in which counsel has been provided by the commission.

House Bill No. 1197 provides that a person 18 years of age or over who is arrested for the commission of a felony is required to provide correctional personnel upon booking a sample of blood or other bodily fluids for DNA law enforcement identification purposes and inclusion in the law enforcement identification data bases. The bill also provides that a person whose DNA profile has been included in the data base may petition the court for expungement on the grounds that the arrest that led to the inclusion of the DNA profile has not resulted in a felony charge within one year; has been resolved by a dismissal, acquittal, or misdemeanor conviction; or has not resulted in a felony conviction. The bill becomes effective on August 1, 2009.

House Bill No. 1224 provides that a person whose DNA profile has been included in the DNA data base may petition the district court to seal the court record on the grounds that the conviction on which the authority for including the DNA profile was based has been reversed or the case dismissed. The bill provides that a sealed record may not be opened even by court order.

House Bill No. 1333 provides that a statement, affirmation, gesture, or conduct of a health care provider which expresses apology, sympathy, commiseration, condolence, compassion, or benevolence to a patient or a patient's relative or representative is not admissible as evidence of liability in a civil action or other civil proceeding regarding the health care provider.

House Bill No. 1355 provides that for the purposes of determining whether DNA testing is mandated, "conviction" and "convicted" mean a plea of guilty or a finding of guilty by a court or a jury of certain crimes regardless of whether the court suspended execution of sentence or deferred imposition of sentence.