

June 2007

## **TITLE 32**

### **Judicial Remedies**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1108**, with respect to automated external defibrillator use, removes the provision that certain requirements must be met before a licensed physician, the person who provides the training on the automated external defibrillator, or the person responsible for the site on which the automated external defibrillator is located are immune from civil liability for injury resulting from the use of or failure to use the device.

**House Bill No. 1211** relates to the garnishment of wages. The bill provides that regardless of whether the garnishment debtor fails to provide a list to an employer of dependents who reside with the garnishment debtor within the 10-day period provided for in this section, the garnishment debtor may provide the list at a later date, in which case the exemptions claimed will be in effect subject to garnishment after the date the list is provided. The bill also updates the garnishment forms with respect to notice requirements, the form of summons and notice, and disclosure.

**House Bill No. 1322** directs the director of the Office of Management and Budget to establish guidelines for indemnification and insurance provisions in contracts that may be entered by an executive branch state agency.

**House Bill No. 1452** provides that a charitable organization may be held liable only for money damages for a personal injury or property damage proximately caused by the negligence or wrongful act or omission of an employee acting within the employee's scope of employment. The bill limits the charitable organization's liability to a total of \$250,000 per person and \$1 million for any number of claims arising from any single occurrence.

**Senate Bill No. 2214** relates to the appropriate uses of eminent domain. The bill provides that private property may not be taken for the use of, or ownership by, any private individual or entity unless that property is necessary for conducting a common carrier or utility business. The bill also provides that a public use or a public purpose does not include public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health.

**Senate Bill No. 2216** provides that a person redeeming from a sheriff's sale may pay the required amount either to the holder of the certificate or to the sheriff. The bill also removes the requirement that a notice before foreclosure be served by registered mail. Under the bill, the notice may be served by mail addressed to the owner of record at the owner's post-office address in the mortgage or by the records in the chain of title of the recorder of the county where the real estate is situated.

**Senate Bill No. 2242** expands the definition of "political subdivision," as it applies to governmental liability, to include administrative or legal entities responsible for administration of joint powers agreements.

**Senate Bill No. 2260** provides that when an individual files a petition for a name change, the court is required to determine whether the petitioner has a criminal history in this state or any other state. The bill provides that the court may require the petitioner to submit to a statewide and nationwide criminal history record check. The bill provides that if the individual petitioning for a name change has a felony conviction, the request is presumed to be made in bad faith, to defraud or mislead, to cause injury to an

individual, or to compromise public safety. The bill provides that the name change may not be granted unless the individual proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.

**Senate Bill No. 2274** relates to the garnishment of wages. The bill changes the formula to establish the amount a garnishee is permitted to retain. The bill updates the garnishment forms with respect to the form of summons and notice and disclosure.