

June 2009

TITLE 28

Judicial Procedure, Civil

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 28. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to civil judicial procedure may be classified in these subject areas: civil actions, administrative agency rules, and miscellaneous.

CIVIL ACTIONS

House Bill No. 1039 clarifies and revises several of the absolute exemptions, including family books, clothing and wearing apparel, and fuel; clarifies that certain exemptions are available only to the head of household; increases and clarifies the motor vehicle exemption; allows an exemption for a house trailer or mobile home to be taken in lieu of the homestead exemption; for the purpose of claiming an account as exempt, limits the time period within which an individual may contribute to a retirement account; increases the additional exemption for head of a family from \$5,000 to \$7,500; clarifies the exemptions for pensions, annuity policies, and life insurance; increases or eliminates the maximum amount of compensation that may be claimed as exempt on account of the debtor's right to receive or property that is traceable to wrongful death or personal bodily injury; and increases the homestead exemption from \$80,000 to \$100,000.

House Bill No. 1302 allows for an extension of time for serving an expert opinion affidavit in medical liability actions. The bill provides that the court may set a later date for serving the affidavit if the plaintiff's request for an extension of time is made before the expiration of the three-month period following commencement of the action.

Senate Bill No. 2232 makes procedural changes with respect to the execution of judgment. This bill clarifies that if the judgment requires the payment of money or the delivery of property, the judgment may be enforced by execution. The bill also provides that if the judgment requires the sale of property, the judgment may be enforced by a special execution directing the sale and application of the proceeds in conformity with the judgment. The bill provides that real property must be sold in the county in which it is located.

Senate Bill No. 2250 updates terminology by changing the name of a "mechanic's" lien to a "construction" lien.

ADMINISTRATIVE AGENCY RULES

House Bill No. 1306 exempts from the definition of administrative agency the Attorney General with respect to the 24/7 sobriety program guidelines and program fees.

Senate Bill No. 2026 advances the filing deadline for administrative agency rules by 15 days to allow more time for preparation and delivery of proposed rules to Administrative Rules Committee members.

MISCELLANEOUS

House Bill No. 1436 changes the name of the Legislative Council to the Legislative Management. The bill also distinguishes between the Legislative Management, which is the 17-member legislative body chosen biennially before the close of each regular legislative session and the Legislative Council, which provides staff services to the Legislative Management.

Senate Bill No. 2074 codifies the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. This Act addresses the issue of jurisdiction over adult guardianships, conservatorships, and other protective proceedings and provides a mechanism for resolving multistate jurisdictional disputes.