

January 18, 2021  
House Judiciary Committee  
HB 1130  
Rep. Lawrence R. Klemin, Chair

For the record, I am Stephanie Dassinger. I am appearing on behalf of the North Dakota League of Cities.

The North Dakota League of Cities appears in support of the concept of HB 1130 and supports the bill if the amendments included with my testimony are adopted.

Representative Lefor and I have been working with the municipal court judges to find a way to allow municipal courts to convert their criminal judgments into civil court judgments in the district court. This goal has proven more difficult than it initially appeared since it needs to consider that it involves two different court systems. The North Dakota Century Code has a process for district courts to convert criminal judgments to civil judgments and it makes sense to have a similar process for municipal court judgments.

One of the advantages of converting a municipal court judgment to a civil judgment is that a civil court judgment is a lien on all real property in the county where the judgment is filed. Thus, for example, if a defendant owns a home and decides to sell the home, he or she would need to pay the judgment to resolve the lien on the house and convey clean title to the new owners. This provides a convenient way to resolve some outstanding municipal court judgments.

To help provide context for the other reason why it makes sense to convert a criminal judgment into a civil judgment, I will explain what happens when someone defaults on paying the fines and fees associated with a municipal court judgment. When someone fails to pay the fines or fees associated with a municipal court judgment, the municipal court issues the defendant notice of an order to show cause hearing. This is a court hearing where the defendant comes in and explains why he or she cannot pay the fines and fees. If the defendant fails to appear for the order to show cause hearing, the court will issue a warrant for the defendant's arrest. If that defendant encounters law enforcement for another reason, such as a traffic offense, he or she will be arrested and brought before the municipal judge on the warrant for failing to attend the hearing. The defendant is brought before the municipal judge and asked to explain why he or she has not paid the fines and fees. A lot of times that person is unable to pay the fines and fees and is released. Then the process starts over again. Converting the municipal judgment to a civil judgment would stop the cycle of order to show cause hearings, arrest warrants, and arrests.

Onto the language of the original bill. The goal of the bill is to accomplish all of the things I just discussed. Unfortunately, in reviewing the bill, I do not believe it quite gets to where it needs to be. As a result, the attached hog house amendment was drafted, which I believe provides a process to accomplish converting municipal judgments to civil judgments.

The amendment is modeled after NDCC ch. 28-20.1 on the enforcement of judgments from other jurisdictions inside North Dakota. As such, this is a process that is already familiar in the North Dakota Court System.

With that explanation, I will walk through the proposed amendment which adds 5 sections to NDCC ch. 40-18 on municipal judges.

New section 40-18-14.1 provides the general authority for filing a municipal judgment with the clerk of court of district court and instructs the clerk of court to treat the judgment in the same manner as a civil district court judgment.

New section 40-18-14.2 requires that the municipal court file an affidavit that includes the last known postal mailing address for the defendant along with the judgment. It also requires that the clerk of court use that mailing address to mail the defendant notice of the filing. The municipal court has the option to also mail the defendant notice of the filing.

New section 40-18-14.3 provides that the defendant can file a stay or stop the judgment from being effective if an appeal will be filed or is pending. As a practical matter, I do not see any of the municipal judges using these new provisions prior to any appeals being finalized.

New section 40-18-14.4 provides that the municipal court will pay the district court a \$10 filing fee. This fee is consistent with the fee that is paid to file judgments from other jurisdictions with the district court.

New section 40-18-14.5 provides that once this process is complete, the judgment is only enforceable as a civil judgment.

The North Dakota League of Cities requests that you adopt the proposed amendment language and then make a DO PASS recommendation on HB 1130.

Thank you for your consideration.