

March 15, 2021  
Senate Judiciary Committee  
HB 1130  
Sen. Diane Larson, Chair

For the record, I am Stephanie Dassinger. I am appearing on behalf of the North Dakota League of Cities in support of HB 1130.

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 judgments in the district court. As demonstrated by the hog house amendment adopted by the House, this process proved more difficult than it originally appeared. Additionally, I have had conversations with a representative from the Supreme Court about one additional amendment to the bill and the League would support that amendment. I will explain that amendment later in my testimony.

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 has not paid 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 for failing to attend the hearing. At that hearing the person is 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 after agreeing to a payment plan for getting the fines and fees paid. Then the process starts over again if payments are not made in accordance with the payment plan. Converting the municipal judgment to a civil judgment would stop the cycle of order to show cause hearings, arrest warrants, and arrests.

The bill 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 HB 1130 which adds 5 sections to NDCC ch. 40-18 on municipal judges.

## Section 1

This section 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.

## Section 2

This section 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.

This is the section that has a proposed amendment. The amendment would require that the municipal court, not the district court clerk, mail the defendant a copy of the notice of filing and file proof of the mailing with the district court. The League supports this amendment and asks that the committee adopt the amendment.

## Section 3

This section 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.

## Section 4

This section 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.

## Section 5

This section 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 and then make a DO PASS recommendation on HB 1130.

Thank you for your consideration.

40 - 18 - 14.2. Notice of filing.

1. At the time of filing a judgment under section 40 - 18 - 14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28 - 20 - 15 be filed.

2. Upon the filing of the judgment and affidavit as provided in section 40 - 18 - 14, the clerk of ~~district~~ municipal court shall mail notice of the filing of the municipal judgment to the defendant at the ~~address provided and make a note of the mailing in the docket~~ defendant's last known address and file proof of mailing with the district court. The notice must include the name and mailing address of the municipal court. ~~In addition, the municipal judge may order notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. If proof of mailing by the municipal court has been filed, a failure of the clerk of district court to mail a notice may not effect the enforcement of the proceedings.~~

3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1130

Page 1, line 20 replace "district" with "municipal"

Page 1, line 21 replace "address provided and make a note of the mailing in the docket" with "defendant's last known address and file proof of mailing with the district court"

Page 1, line 22, overstrike "In addition, the municipal"

Page 1, overstrike lines 23-24

Page 2, overstrike lines 1-2

Renumber accordingly

