

CRIMES AND PUNISHMENTS

CHAPTER 103

S. B. No. 88
(Jurgensen)

INTERRACIAL COHABITATION, REPEAL

AN ACT

To repeal section 12-22-13 of the North Dakota Century Code, relating to Negro man and white woman or white man and Negro woman occupying same room.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Repeal.) Section 12-22-13 of the North Dakota Century Code is hereby repealed.

Approved February 26, 1965.

CHAPTER 104

S. B. No. 297
(Forkner, Kelly, Beck, Becker, Reichert, Lips, Lashkowitz)

EXTORTION

AN ACT

To amend and reenact section 12-37-07 of the North Dakota Century Code, relating to the punishment for an attempt to extort money or property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 12-37-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-37-07. Attempts to Extort Money or Property—Punishment.) Every person who unsuccessfully attempts by means of any verbal threat such as is specified in section 12-37-02, to extort money or other property from another, shall be

punished by imprisonment in the penitentiary for not less than one year nor more than five years, or in a county jail for not more than one year.

Approved March 15, 1965.

CHAPTER 105

H. B. No. 872

(Borstad, Erickson (Mountrail))

TRADING SURPLUS FOODS

AN ACT

Prohibiting sale, trading in or bartering of surplus federal food or other commodities, prohibiting purchase or exchange of such surplus federal food or other commodities, making violation hereof a misdemeanor and providing penalties therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Prohibition of Sale, Trading in, Barter, Purchase or Exchange of Surplus Federal Food or Other Commodities—Violation a Misdemeanor—Penalties.) Any person who knowingly makes any unauthorized disposition of any federal food or other commodity donated under any program of the federal government, by selling, trading in or bartering such federal food or other commodity, and any unauthorized person who knowingly receives such food or other commodity donated under any program of the federal government by purchase, exchange or other means, and converts same to his own use, is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Approved March 10, 1965.

CHAPTER 106

S. B. No. 271
(Robinson, Solberg)

WILLFUL TRESPASS

AN ACT

To define willful trespass upon land, providing a penalty, and to repeal section 12-41-12 of the North Dakota Century Code.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Trespasses Upon Lands Enumerated—Misdemeanor.)

Any person who willfully commits any trespass by either:

1. Willfully opening, tearing down or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar or fence of another and willfully leaving it open without the permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice relative to trespassing;
2. Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession;
3. Entering cultivated or enclosed lands where signs forbidding trespass are displayed at intervals not less than four to the mile along exterior boundaries;
4. Entering any privately owned lands described in subsection 3, without the permission of the owner of such land, his agent or of the person in lawful possession and
 - a. Refusing or failing to leave such lands immediately upon being requested by the owner of such land, his agent or by the person in lawful possession to leave such land;
 - b. Tearing down, mutilating or destroying any signs, signboard, or notice forbidding entry on such lands; or
 - c. Removing, injuring, unlocking or tampering with any lock on any gate on or leading into such lands;

is guilty of a misdemeanor.

§ 2. **Repeal.**) Section 12-41-12 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1965.

CHAPTER 107

S. B. No. 235
(Lips)

PRISON INDUSTRIES

AN ACT

To authorize the board of administration to establish and engage in such new prison industries as the board deems necessary, and of greatest benefit to, and in the best interest of the state of North Dakota, the state penitentiary, and the North Dakota state farm.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **The Board May Establish and Engage in New Prison Industries.)** The warden of the state penitentiary under the direction and with the approval of the board of administration, or its successor board is authorized to establish, and engage in such new prison industries as said board deems necessary, and which are of greatest benefit to and in the best interest of the state of North Dakota, the state penitentiary, the North Dakota state farm, and the inmates of said institutions.

§ 2.) The board and the warden shall make all rules and regulations and do all things necessary or incidental to the establishing and maintaining of such industries including the manufacture, sale, or distribution of the produce or products therefrom, and, so far as is compatible with the efficient operation of the industry, shall use the inmates and employees of the penitentiary as laborers in such industries. The provisions of this section are in addition, and subject to statutes governing other specific industries.

Approved March 6, 1965.

CHAPTER 108

S. B. No. 62
(Lips)

PENITENTIARY TANNERY AND COFFINS, REPEAL

AN ACT

To repeal sections 12-48-08, 12-48-09, and 12-48-10 of the North Dakota Century Code, and section 12-48-11 of the 1963 Supplement to the North Dakota Century Code, relating to the penitentiary tannery, and the manufacture, marking, and sale of coffins at the penitentiary.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Repeal.) Sections 12-48-08, 12-48-09, 12-48-10, and 12-48-11 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1965.

CHAPTER 109

H. B. No. 553
(Jungroth)

APPEALS FROM SUSPENDED SENTENCE

AN ACT

To create and enact section 12-53-20 of the North Dakota Century Code, relating to criminal appeals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Section 12-53-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-53-20. Nothing in this chapter shall be construed as precluding the defendant in a criminal action from appealing to the supreme court under the provisions of chapter 29-28.

Approved March 6, 1965.

CHAPTER 110

S. B. No. 52
(Reichert, Longmire)
(From LRC Study)

TRANSFER OF MENTALLY ILL PRISONERS

AN ACT

To create sections 12-55-11.1 and 12-59-13.1 and to amend and reenact sections 12-30-12, 12-47-27, 12-47-28, 12-53-07, 12-59-07, and 12-59-13 of the North Dakota Century Code, relating to a definition of commutation; parole; indeterminate sentence; and transfer of mentally ill to state hospital.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 12-30-12 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-30-12. Psychiatric Treatment.) The warden may cause any person convicted under the provisions of this chapter to be given psychiatric treatment or to be transferred to the state hospital for diagnosis and disposition according to such conditions as may be prescribed by the warden after consultation with the prison psychiatrist or psychologist.

§ 2. **Amendment.)** Section 12-47-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-27. Transfer of Penitentiary Inmate to State Hospital—Written Order by Warden.) Whenever the warden of the penitentiary believes that a person confined in the penitentiary has become mentally ill during his confinement he may require such person to be given a psychiatric evaluation or transfer such person to the state hospital for such evaluation. If it is found from the evaluation that such person is mentally ill such person shall be confined and treated in the state hospital upon a written order by the warden.

§ 3. **Amendment.)** Section 12-47-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-28. Copy of Written Order by Warden Delivered to Superintendent of State Hospital—Superintendent to Receive Inmate—Filing of Receipt.) The warden of the penitentiary shall deliver to the superintendent of the state hospital, with

any person transferred thereto as provided in section 12-47-27, a correct copy of the written order of the warden directing such transfer. The superintendent of the state hospital shall receive such person into the hospital upon the presentation of such order and shall deliver to the warden a certificate acknowledging the receipt of such person and of the original order. The certificate of the superintendent of the state hospital shall be retained by the warden and filed in his office.

§ 4. **Amendment.)** Section 12-53-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-07. Duty of Clerk of Court When Felony Sentence Is Suspended—Release of Defendant—Statistical Data.) Whenever the court shall make its order that the sentence imposed upon a person convicted of a felony shall be suspended and such person placed on probation as provided in this chapter, it shall be the immediate duty of the clerk of the court in which the judgment is entered to make full copies of the judgment of the court with the order for the suspension of the execution of the sentence thereunder and the reasons assigned by the court for such suspension, and to certify the same to the clerk of the parole board. Upon the entry in the records of the court of an order for such suspension and probation, the defendant shall be released from custody as soon as the requirements of the parole board have been met properly and fully. It shall also be the duty of the clerk of court, upon the disposition of any criminal case, to transmit to the parole board statistical data, in accordance with regulations issued by the board, regarding all defendants whether found guilty or discharged.

§ 5.) Section 12-55-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-55-11.1. Commutation—Definition of.) A commutation of sentence is the change of the punishment to which a person is sentenced to a less severe punishment.

§ 6. **Amendment.)** Section 12-59-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-59-07. Requirements Precedent to Parole.) No parole shall be granted to any person confined in the penitentiary unless:

1. He has maintained a good record at the penitentiary for a reasonable period prior to his application for a parole and the board is convinced that the applicant will conform to all the rules and regulations adopted by said board; or

2. A detainer has been lodged by another authority.

§ 7. Amendment.) Section 12-59-13 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-59-13. Indeterminate Sentence—Release of Prisoner to Parole.) No person serving an indeterminate sentence shall be released from the penitentiary merely because the minimum term of his sentence has expired, but his imprisonment shall continue until the expiration of the maximum term unless he is paroled from the institution by the board. The board may determine and fix the date when an inmate imprisoned under an indeterminate sentence may be paroled, which date, in the discretion of the parole board, may precede the date any minimum sentence may be served under an indeterminate sentence.

§ 8.) Section 12-59-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-59-13.1. Indeterminate Sentence—Board to Determine Maximum Sentence.) When a person has been imprisoned under an indeterminate sentence the parole board shall prior to the expiration of the minimum term of such sentence fix and determine the maximum sentence to be served by such person. The term set by the parole board shall not be less than the minimum nor more than the maximum sentence imposed upon such person.

Approved March 15, 1965.

CHAPTER 111

S. B. No. 274
(Reichert, Longmire)

CRIMINAL IDENTIFICATION BUREAU

AN ACT

To create a bureau of the state government to be designated as the bureau of criminal identification and apprehension, to specify its organization, duties and responsibilities to correlate same with existent agencies and existent law, and to provide for additional functions of same as a consumer fraud bureau.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Bureau Created.) A bureau of the state government, under the attorney general, is hereby created and is designated as the bureau of criminal identification and apprehension hereinafter referred to as the bureau.

§ 2. Board of Managers—Selection of Members—Qualifications.) There shall be a board of managers of the bureau, consisting of four members, the attorney general, by virtue of his office, and three members appointed by the governor. One of the appointed members shall be a chief of police of a city, one a sheriff, and one a state's attorney.

§ 3. Terms of Office—Filling of Vacancies.) All appointments shall be for terms of two years. If the term of any member of the board expires, as the chief of police, sheriff, or state's attorney, he shall cease to be a member of the board. The governor shall fill all vacancies in the board by the appointment of the same kind of an officer as was his predecessor. Vacancies shall be filled by appointment for the unexpired term.

§ 4. Duty of Board.) The board of managers shall advise the attorney general and the superintendent of criminal identification with respect to the operation and conduct of the bureau.

§ 5. Salaries.) The members of the board of managers shall serve without compensation. Each member shall receive his necessary traveling expenses while attending meetings of the board.

§ 6. Attorney General—Duties.) The attorney general shall have the responsibility of and shall exercise absolute control and management of the bureau. The attorney general shall be president of the board.

§ 7. Appointment of Chief, Investigators and Employees.)

The attorney general shall appoint and fix the salary of a chief of the bureau, such special agents, and such other employees as he deems necessary to carry out the provisions of this chapter within the limits of legislative appropriations therefor.

§ 8. Furnishing of Equipment.) The attorney general shall provide the bureau with necessary furniture, fixtures, apparatus, appurtenances, appliances, materials and equipment as he deems necessary for the collection, filing and preservation of all records required by law to be filed with the bureau or which he may authorize or require to procure respecting the identification and investigation of criminals, the investigation of crime and detection of the perpetrators thereof and identification and information concerning stolen, lost, found, pledged or pawned property.

§ 9. Powers and Duties of the Bureau.) The duties and responsibilities of the bureau shall be:

1. To cooperate with and assist the criminal bureau of the department of justice at Washington, D. C. and similar departments in other states in establishing and carrying on a complete system of criminal identification;
2. To cooperate with and assist all judges, state's attorneys, sheriffs, chiefs of police, and all other law enforcement officers of this or any other state and of the federal government in establishing such system of criminal identification;
3. To file for record the fingerprint impressions of every person confined in any penitentiary or jail when such person is suspected of having committed a felony or of being a fugitive from justice, and to file such other information as they may receive from the law enforcement officers of this or any other state, or from the federal government;
4. To assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime;
5. When called upon by any state's attorney, sheriff, police officer, marshal and other peace officers, the superintendent, chief of the bureau and their investigators may assist, aid, and cooperate in the investigation, apprehension, arrest, detention and conviction of all persons believed to be guilty of committing any felony within the state;

6. To perform such other duties in the investigation, detection, apprehension, prosecution or suppression of crimes as may be assigned by the attorney general in the performance of his duties;
7. To provide assistance from time to time, in conducting police schools under chapter 54-50 of the North Dakota Century Code at convenient centers in the state for training peace officers in their powers and duties, and in the use of approved methods for detection, identification, and apprehension of criminals and to require attendance at such police schools;
8. To accumulate, keep and maintain a file for the identification of persons convicted of issuing false and fraudulent checks, no-account checks and nonsufficient funds checks, and to aid local law enforcement officials in the detection, apprehension and conviction of said persons.

§ 10. Powers of Investigators.) For the purpose of carrying out the provisions of this chapter, the investigators shall have all the powers conferred by law upon any peace officer of this state.

§ 11. Authorization of Attorney General for Investigations.) No investigation of the acts or conduct of any state agency or state official shall be investigated or made through or by the bureau or any employee thereof, without the authorization of the attorney general particularly specifying the office, department or person to be investigated and the scope and purposes of the investigation.

§ 12. Fingerprints, Photographs, Description of Persons Arrested for Felony To Be Procured and Filed.) The chief of the bureau shall procure and file for record in the offices of the bureau all the plates, fingerprints, photographs, outline pictures, descriptions, information, and measurements which can be procured of all persons who have been or shall be arrested for any felony under the laws of this or any other state, or of the United States, and of all well known and habitual criminals. The person in charge of any state penal institution and every state's attorney, sheriff, chief of police, or other police officer shall furnish any such material to the superintendent upon his request.

§ 13. Enforcement Officers to Send Fingerprints and Descriptions of Felons to the Bureau—Report of the Bureau to Arresting Officer.) All state's attorneys, sheriffs, chiefs of police, and other law enforcement officers shall take the fingerprints of any person arrested on a felony charge and of every person who, in the judgment of the arresting officer, is

wanted on a felony charge or who, the arresting officer has reason to believe, is a fugitive from justice. Copies of such fingerprints in duplicate shall be transmitted to the superintendent within twenty-four hours after an arrested person is taken into custody, together with a description of and all available information respecting the arrested person. The chief of the bureau shall compare the fingerprints and descriptions received by him with those already on file in his office, and if he finds that the person arrested has a criminal record or is a fugitive from justice, he immediately shall inform the arresting officer of his findings together with the name or names under which such person has been previously arrested, and shall forward a carbon copy of his report to the state's attorney of the county in which the arrest was made. All state's attorneys, sheriffs, chiefs of police, and other law enforcement officers, shall report to the bureau all complaints signed, warrants issued, and records of convictions and sentences for all offenses involving no-account, insufficient funds, and false and fraudulent checks.

§ 14. Officer May Send Fingerprints of Persons Having Certain Property in Possession.) A sheriff may take and forward to the chief of the bureau the fingerprints of any person who has in his possession at the time of his arrest goods or property reasonably believed to have been stolen, or in whose possession is found a burglary outfit, tools, keys, or explosives believed by the sheriff to be intended for unlawful use, or who is carrying a concealed or deadly weapon without lawful authority, or who is in possession of any ink, dye, paper, or other articles useable in the making of counterfeit money, or who has in his possession any tools or equipment used in defacing or changing the numbers on motor vehicles, or who is believed to have been previously incarcerated in any state or federal penitentiary.

§ 15. Court to Ascertain Criminal Record of Defendant—Furnish Information of Offense to the Bureau.) The judge of the district court of the county in which a defendant is to be sentenced, or the state's attorney or sheriff thereof, shall ascertain the criminal record of every defendant convicted of a felony before sentence is passed on said defendant. The state's attorneys and sheriffs, upon the request of the chief of the bureau or the attorney general, shall furnish to the chief of the bureau a statement of facts relative to the commission or alleged commission of all felonies within their respective counties upon such blanks or in such form as may be requested by the chief of the bureau or the attorney general.

§ 16. Violation of Chapter—Misdemeanor.) The neglect or refusal of any officer to make any report, or to do or perform

any act required to be made or performed by him in any provision of this chapter shall constitute a misdemeanor, and such officer shall be punished by a fine of not less than five dollars nor more than twenty-five dollars. Such neglect or refusal also shall constitute nonfeasance in office and shall subject the officer to removal from office.

§ 17. Duty to Furnish Information.) The chief of the bureau shall furnish, upon application, all information pertaining to the identification of any person, a plate, photograph, outline picture, description, measurement, or any data of which person there is a record in the office of the bureau.

The information shall be furnished to all peace officers of the state, to the United States officers or officers of other states, territories, or possessions of the United States, or peace officers of other countries duly authorized to receive the same, upon application in writing accompanied by a certificate signed by the officer, stating that the information applied for is necessary in the interest of the due administration of the laws, and not for the purpose of assisting a private citizen in carrying on his personal interests or in maliciously or uselessly harassing, degrading or humiliating any person.

§ 18. Report of Arrested Person's Transfer or Release, or of Disposition of Case.) In any case in which a sheriff, police department or other law enforcement agency makes an arrest and transmits a report of the arrest to the bureau of criminal identification and investigation or to the Federal Bureau of Investigation, it shall be the duty of such law enforcement agency to furnish a report to such bureaus whenever the arrested person is transferred to the custody of another agency or is released without having a complaint or accusation filed with a court.

When a complaint or accusation has been filed with a court against such an arrested person, the law enforcement agency having primary jurisdiction to investigate the offense alleged therein shall receive the disposition of that case from the appropriate court and shall transmit a report of such disposition to the same bureaus to which arrest data has been furnished.

§ 19. Superintendent to Make Rules and Regulations.) The superintendent with the approval of the attorney general, pursuant to the Administrative Practices Act, shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of the bureau's duties. Such rules and regulations shall be printed and forwarded to each state's attorney, sheriff, constable, marshal, or other peace

officer, and each of said officers shall assist the superintendent in the performance of his duties by complying with such rules and regulations.

§ 20. Money Collected Paid Into General Fund.) All moneys collected or received, including all rewards for the apprehension or conviction of any criminal earned or collected by the superintendent, the chief of the bureau, his assistants, or any employee of his office, shall be paid into the general fund of the state.

§ 21.) The bureau shall work and cooperate with the commission on peace officers' standards and training as heretofore established in the fields specified in section 54-50-02 of the 1963 Supplement to the North Dakota Century Code and in such other related fields as said commission and the bureau may deem feasible.

§ 22. Bureau to Act as a Consumer Fraud Bureau and to Cooperate with Other Agencies in Detection, Investigation, and Enforcement of Laws and Regulations with Regard to Consumer Fraud.) The bureau shall also act as a consumer fraud bureau with regard to the use or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, and shall make full investigation of such activities, maintain adequate facilities for filing reports, examining persons and merchandise in regard thereto, storing impounded books, records, accounts, papers and samples of merchandise relating to same. The bureau shall further cooperate with other governmental agencies, national, state or local, and with all peace officers of the state in regard thereto.

§ 23. Repeal.) Chapter 12-58 of the North Dakota Century Code and all amendments thereto are hereby repealed.

Approved March 15, 1965.