

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 251

SENATE BILL NO. 2197
(Longmire)

MAGISTRATES

AN ACT to amend and reenact subsection 3 of section 29-01-14 and section 29-01-15 of the North Dakota Century Code, relating to the definition of a magistrate, including small claims court referees as magistrates, and relating to the jurisdiction of county justices and county judges; and to repeal subsection 12 of section 12-01-04 of the North Dakota Century Code, defining magistrates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 29-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 3. As limited by law directing the place of exercising their jurisdiction and authority, county justices, municipal judges, small claims court referees who are licensed to practice law, and authorized by the county commissioners in case of an emergency and, when authorized by law, the judges of the county courts, including those with increased jurisdiction, each with authority to act as magistrate throughout the county or the city for which he is elected or appointed.

SECTION 2. AMENDMENT.) Section 29-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-15. JURISDICTION OF JUSTICES, MUNICIPAL JUDGES, SMALL CLAIMS COURT REFEREES, AND COUNTY COURTS.) Any county justice, municipal judge, or judge of the county court mentioned in section 29-01-14, subsection 3, may:

1. Act as committing magistrate;
2. Hear, try, and determine petit misdemeanors when jurisdiction has been conferred by the Constitution and this and other laws; and
3. Adjudge and impose the punishment prescribed by law,

*NOTE: Subsection 3 of section 29-01-14 was also amended by section 14 of Senate Bill No. 2033, chapter 301.

upon conviction, in all cases within his jurisdiction to hear, try, and determine.

A small claims court referee authorized pursuant to subsection 3 of section 29-01-14 may act as a committing magistrate.

SECTION 3. REPEAL.) Subsection 12 of section 12-01-04 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1973

CHAPTER 252

SENATE BILL NO. 2291
(Freed, Nething)

INVOLUNTARY WAIVERS OF
PRELIMINARY EXAMINATIONS

AN ACT to repeal section 29-05-22 of the North Dakota Century Code, relating to involuntary waivers of preliminary examinations through posting of bond.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 29-05-22 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1973

CHAPTER 253

HOUSE BILL NO. 1479
(Metzger)

CONSOLIDATION OF INDICTMENTS

AN ACT to amend and reenact section 29-11-10.1 of the North Dakota Century Code, relating to charging crime in separate counts and consolidating indictments and informations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 29-11-10.1 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-11-10.1. CHARGING CRIME IN SEPARATE COUNTS AND CONSOLIDATING INDICTMENTS AND INFORMATIONS.) When there are several charges for the same act or transaction, constituting different crimes or the same crime alleged to have been committed in a different manner or by different means, or for two or more acts or transactions connected together or constituting parts of a common scheme or plan, or for two or more acts or transactions constituting crimes of the same or a similar character, instead of having several indictments or informations, the whole may be joined in one indictment or information in separate counts, and if two or more indictments or informations are found in such cases, the court may order them to be consolidated; provided, however, that where the charges involve two or more acts or transactions constituting crimes of the same or a similar character which are neither connected together nor parts of a common scheme or plan, the court, in the interest of justice and for good cause shown, may, in its discretion, order that the different charges set forth in the indictment or information or indictments or informations, be tried separately. The joinder or consolidation of indictments or informations shall not be prevented by the fact that different penalties may be imposed for conviction upon the several crimes charged or that the crimes charged occurred in different counties in this state.

Approved March 12, 1973

CHAPTER 254

HOUSE BILL NO. 1120
(Meyer, Rivinius)

RESTITUTION

AN ACT to provide for the use of restitution as a sentencing alternative, providing guidelines for its use, and providing for termination of the effectiveness of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) 1. In addition to any other sentence authorized by law, or as a condition of probation, a court of this state may order a person convicted of an offense under the laws of this state to make restitution to the victim or victims of the offense. The amount of restitution fixed by the court shall not exceed an amount which the defendant can or will be able to pay. The amount of restitution shall be limited to the reasonable damages sustained by the victim or victims, which damages shall be limited to fruits of the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action.

2. If the defendant has money or property which were wrongfully acquired, by whatever means, from the victim or victims as a result of the criminal offense of which the defendant is guilty, or if the court has custody of such money or property, the court shall order such money or property returned to the victim or victims as his or their interests shall appear. Any payments made or money or property returned pursuant to an order issued under this section shall be deducted from damages awarded in a civil action arising out of the same incident from which the criminal charges arose.

3. If the court orders the defendant to make restitution under this section, the court shall not also sentence the defendant to pay a fine, unless the court is satisfied that such sentence will not impair the defendant's ability to make restitution.

4. The provisions of this section shall be in full force and effect, and shall apply to all offenses committed between July 1, 1973, and June 30, 1975.

Approved March 8, 1973

*see pages 290-292 for restitution provisions
in new crim. code*