

April 2, 2003

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1088

That the Senate recede from its amendments as printed on pages 1101-1104 of the House Journal and pages 811-813 of the Senate Journal and that Reengrossed House Bill No. 1088 be amended as follows:

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the

inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases except infractions, upon a plea or finding of guilt, a the court shall impose a court administration fee in lieu of the assessment of court costs. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs one hundred twenty-five dollars for a class B misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars for a class A or AA felony. ~~If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed.~~ In addition, in all criminal cases except infractions, the court administration fee must include one hundred dollars. Of the additional one hundred dollar court administration fee, the first seven hundred fifty thousand dollars collected per biennium must be deposited in the indigent defense

administration fund, which must be used to contract for indigent defense services in this state, and the next four hundred sixty thousand dollars collected per biennium must be deposited in the court facilities improvement and maintenance fund. After the minimum thresholds have been collected, one-half of the additional court administration fee must be deposited in each fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or any combination thereof both, may be docketed; and thereafter if docketed constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed ~~costs or administrative~~ administration fee in installments. When a defendant is assessed ~~costs or administrative~~ administration fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep

proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.

4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand.

Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed ~~court costs~~ the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly