

HOUSE BILL NO. 1077

Introduced by

Judiciary Committee

(At the request of the Department of Corrections and Rehabilitation)

1 A BILL for an Act to amend and reenact sections 12-48-15 and 12-48-22 of the North Dakota
2 Century Code, relating to inmate funds and accounts and fines and restitution for the
3 misconduct of offenders.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 **12-48-15. Disposition of ~~moneys earned~~ inmate funds - Warden to keep account**
8 **of ~~money earned by inmates~~—~~Investment in interest-bearing accounts~~ inmate funds.**

- 9 1. The warden of the penitentiary shall keep an account for each inmate. Not more
10 than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary
11 rules, must be withheld from an inmate and deposited in a separate account for the
12 inmate and may not be made available to the inmate until the inmate's release
13 from the penitentiary, except as authorized by the warden. The remainder of an
14 inmate's earnings must be made available to the inmate on a regular basis.
- 15 2. Inmates may, in writing, authorize the warden or designee to deposit any of their
16 accumulated earnings from the prison industries, hobby, work release, or any other
17 prison program in an interest-earning account in the Bank of North Dakota for the
18 benefit of the inmate. The account must be a two-signature account requiring the
19 inmate's signature and that of an authorized designated officer or employee of the
20 state penitentiary for withdrawal.
- 21 3. The warden may directly deposit an inmate's funds from sources outside of the
22 penitentiary in any bank or account the inmate may designate. If a court order
23 does not allow an inmate to designate a bank or account other than a Bank of
24 North Dakota account or if it is necessary for the benefit and protection of the

- 1 inmate, the warden, upon written explanation to the inmate, shall deposit an
2 inmate's funds from sources outside the penitentiary into a Bank of North Dakota
3 account. The department of corrections and rehabilitation and its divisions,
4 departments, officers, and employees may not be held responsible or liable for any
5 inmate income or funds deposited into a bank or account designated by an inmate.
- 6 4. The warden is responsible for guiding inmates in making proper use of their funds
7 to pay their obligations, including the payment of any ~~administration~~
8 administratively ordered fee, fine or restitution, court-appointed counsel fees,
9 court-ordered restitution, support for dependent relatives, or to provide for their
10 own medical, surgical, eye care, or dental treatment, or to pay for other services
11 not generally provided by the state. The warden may withdraw funds from an
12 inmate's penitentiary account or Bank of North Dakota two-signature account,
13 without the inmate's signature, to meet the inmate's legitimate financial obligations.
14 Before the funds may be withdrawn, the inmate must first receive written notice
15 and be provided a penitentiary administrative hearing with the right to ~~penitentiary~~
16 ~~staff assistance and the right to appeal~~ according to the director of the department
17 of corrections and rehabilitation rules. An inmate is not entitled to prior written
18 notice, administrative hearing, or right to an appeal to the department of
19 corrections and rehabilitation when funds are to be withdrawn for payment of a
20 court-ordered obligation, including child support, provided the inmate has had
21 notice and an opportunity to be heard in the court proceedings.
- 22 5. The warden may pay an inmate all funds in the inmate's spending account, less
23 the inmate's outstanding obligations to the penitentiary, when the inmate is
24 transferred to a county jail or regional correctional center or placed in community
25 corrections confinement. The warden ~~shall~~ may pay an inmate all funds in the
26 inmate's account less the inmate's outstanding obligations to the penitentiary when
27 the inmate is transferred to a correctional facility outside of this state, released on
28 parole, or discharged from the penitentiary.

29 **SECTION 2. AMENDMENT.** Section 12-48-22 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **12-48-22. Fines and restitution for misconduct of offender.** The warden, with the
2 approval of the director of the department of corrections and rehabilitation, shall institute and
3 maintain a uniform system of fines and ~~penalties to be deducted~~ restitution for violation of
4 department rules and when an offender causes personal injury or property damage. The
5 warden may deduct the fine or restitution from the compensation any funds credited to any
6 ~~offender for misconduct or refusal to perform the daily task assigned~~ an offender's penitentiary
7 account or Bank of North Dakota two-signature account.