

SENATE BILL NO. 2326

Introduced by

Senator Potter

1 A BILL for an Act to amend and reenact section 28-26-06 of the North Dakota Century Code,
2 relating to disbursements taxed in judgment when a physician is found negligent in a medical
3 malpractice trial but no autopsy is performed.

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

5 **SECTION 1. AMENDMENT.** Section 28-26-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **28-26-06. Disbursements taxed in judgment.** ~~It~~ Except as provided in subsection 6,
8 in all actions and special proceedings, the clerk of district court shall tax as a part of the
9 judgment in favor of the prevailing party the following necessary disbursements:

- 10 1. The legal fees of witnesses; sheriffs; clerks of district court; the clerk of the
11 supreme court, if ordered by the supreme court; process servers; and of referees
12 and other officers;
- 13 2. The necessary expenses of taking depositions and of procuring evidence
14 necessarily used or obtained for use on the trial;
- 15 3. The legal fees for publication, when publication is made pursuant to law;
- 16 4. The legal fees of the court reporter for a transcript of the testimony when such
17 transcript is used on motion for a new trial or in preparing a statement of the case;
18 ~~and~~
- 19 5. The fees of expert witnesses. The fees must be reasonable fees as determined by
20 the court, plus actual expenses. The following are nevertheless in the sole
21 discretion of the trial court:
 - 22 a. The number of expert witnesses who are allowed fees or expenses;
 - 23 b. The amount of fees to be paid such allowed expert witnesses, including an
24 amount for time expended in preparation for trial; and

- 1 c. The amount of costs for actual expenses to be paid the allowed expert
2 witnesses; and
- 3 6. If a medical provider is found negligent in a trial by jury but no proximate cause of
4 death is established by an autopsy, the defendant shall have no right to
5 disbursements taxed in judgment.