

**Bill**

If restitution is ordered criminally or civilly, the collection amount and procedure will be determined through use of forms PROB 48A and PROB 48C (net worth statement and cash flow statement)

\*Example of punishment: Upon failure to pay the calculated restitution amount, consequences shall result in immediate revocation and class C felony plus assessments of additional fees of perhaps 10%.

**Synopsis**

Hello my name is, Joshua Olson, I live in Mandan and own an alcohol and drug treatment center in Bismarck which was embezzled from over the course of 5 years in the amount of 258,000 criminally and 554,000 civilly. After a very long time of court proceedings, charges were pressed, plea bargains were made, a deferred imposition and probation was sentenced and restitution was ordered.

Three years later, probation was revoked because there was a willful failure to pay that restitution. It was determined that he was making \$93,000 per year and only paying \$200 every month and a half.

During that revocation, the reason why such a small amount was paid is because there is no state statute providing a guideline for restitution payments.

After the revocation hearing, restitution was ordered again and the criminal was ordered to participate in the restitution program through DOCR.

See attached

Currently, the restitution program that was ordered is not being followed by parole and that I hired and is no where near close to being collected in my lifetime.

**REGISTER OF ACTIONS**  
**CASE NO. 08-2017-CR-02715**

Make Payment

Case Type: Felony  
 Date Filed: 09/05/2017  
 Location: - Burleigh County  
 Judicial Officer: Bahr, Douglas A.  
 State's Attorney Case Number: F1430-17-09

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State of North Dakota vs. Nathen P Hilbichuk

**PARTY INFORMATION**

<b>Defendant</b>	Hilbichuk, Nathen P	MANDAN, ND 58554	Male	DOB: 1987
<b>Plaintiff</b>	State of North Dakota	David Lee Rappenecker	701-222-6672(W)	

**CHARGE INFORMATION**

Charges: Hilbichuk, Nathen P	1. Theft-Take-Exceeds \$50,000	Statute	12.1-23-02(1)	Level	Felony A	Date	11/11/2011
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**EVENTS & ORDERS OF THE COURT**

**DISPOSITIONS**

04/16/2018	Plea (Judicial Officer: Anderson, Sonna)	1. Theft-Take-Exceeds \$50,000	Guilty
04/16/2018	Disposition (Judicial Officer: Anderson, Sonna)	1. Theft-Take-Exceeds \$50,000	Pled Guilty
04/16/2018	Order Deferring Imposition of Sentence (Judicial Officer: Anderson, Sonna)	1. Theft-Take-Exceeds \$50,000	11/11/2011 (FA) 12.1-23-02(1) (C00568)

**Condition - Adult:**

1. Deferred Imposition of Sentence, 04/16/2018 - 04/16/2021, Active 04/16/2018
2. Appendix A, 04/16/2018 - 04/16/2021, Active 04/16/2018
3. Supervised Probation, 3 years 04/16/2018 - 04/16/2021, Active 04/16/2018
4. Violate No Criminal Laws, 04/16/2018 - 04/16/2021, Active 04/16/2018
5. Submit to Fingerprints, 04/16/2018 - 04/16/2021, Active 04/16/2018
6. Good time, The Defendant is granted good time for any time spent in custody. 04/16/2018 - 04/16/2021, Active 04/16/2018
7. DNA Sample, The Defendant shall provide a sample of blood or other bodily fluids for DNA law enforcement identification purposes and inclusion in law enforcement identification databases as required by N.D.C. Ch. 31-13. The Defendant shall pay the cost of the collection of the DNA Sample. 04/16/2018 - 04/16/2021, Active 04/16/2018
8. Have No Contact, 04/16/2018 - 04/16/2021, Active 04/16/2018

**Fee Totals:**

Criminal Administration	\$900.00
Fee	\$100.00
Defense/Facility Admin	\$25.00
Victim-Witness Fee	\$1,025.00
Fee Totals:	\$258,016.24
Restitution	\$258,016.24
Fee Totals \$	\$258,016.24

**Comment:** Restitution shall be left open for 90 days.

Amended Disposition (Judicial Officer: Bahr, Douglas A.) Reason: Probation Violation

1. Theft-Take-Exceeds \$50,000

Order Revoking Sentence

Amended Order Deferring Imposition of Sentence (Judicial Officer: Bahr, Douglas A.) Reason: Probation Violation

11/11/2011 (FA) 12.1-23-02(1) (C00568)

**Condition - Adult:**

1. Supervised Probation, 5 years 10/11/2021 - 10/11/2026, Active 10/11/2021
2. Violate No Criminal Laws, 10/11/2021 - 10/11/2026, Active 10/11/2021

3. Submit to Fingerprints, 10/11/2021 - 10/11/2026, Active 10/11/2021  
 4. DNA Sample, The Defendant shall provide a sample of blood or other bodily fluids for DNA law enforcement identification purposes and inclusion in law enforcement identification databases as required by N.D.C.C. Ch. 31-13. The Defendant shall pay the cost of the collection of the DNA Sample, 10/11/2021 - 10/11/2026, Active 10/11/2021  
 5. Appendix A, 10/11/2021 - 10/11/2026, Active 10/11/2021  
 6. Deferred Imposition of Sentence, 10/11/2021 - 10/11/2026, Active 10/11/2021  
 Comment: Defendant is to participate in Restitution Program through the DOCR. Payments being garnished for civil matter should be applied towards restitution until restitution is paid in full.

**OTHER EVENTS AND HEARINGS**

09/05/2017	Complaint Index # 1
09/05/2017	Initial Appearance (3:30 PM) (Judicial Officer Reich, David E.)
09/05/2017	Result: Hearing Ended
09/05/2017	Consent Index # 2
09/05/2017	to ITV and Acknowledgment of Rights
09/05/2017	Bond Index # 3
09/18/2017	Order (10% of \$5,000 cash, remain in ND, no contact with victims)
09/21/2017	Request Index # 5
10/23/2017	Preliminary Hearing and/or Arraignment (10:00 AM) (Judicial Officer Hill, James S)
10/23/2017	Result: Preliminary Hearing Held
10/23/2017	Information Index # 6
10/23/2017	Scheduling Order Index # 7
02/12/2018	Final Dispositional Conference (1:30 PM) (Judicial Officer Romanick, Bruce A.)
02/12/2018	Result: Hearing Ended
02/12/2018	Notice of Hearing Index # 8
04/05/2018	- Amended Trial and Final Disso Hearing
04/05/2018	Letter Index # 9
04/06/2018	Response Index # 10
04/09/2018	Granting Permission to Travel Out of State
04/09/2018	Notice of Hearing Index # 11
04/12/2018	- Amended Final Dispo Hearing
04/12/2018	CANCELLED Final Dispositional Conference (11:00 AM) (Judicial Officer Anderson, Sonna)
04/12/2018	Change of Plea
04/23/2018	04/23/2018 Reset by Court to 04/12/2018
04/12/2018	Notice of Hearing Index # 12
04/16/2018	- Change of Plea
04/17/2018	Change of Plea (9:00 AM) (Judicial Officer Anderson, Sonna)
04/17/2018	Result: Hearing Ended
04/17/2018	Appendix A Index # 13
04/18/2018	Proposed Order Index # 14
04/19/2018	Order Deferring Imposition of Sentence (M.Lawrence)
04/19/2018	Order Deferring Imposition of Sentence (M.Lawrence)
04/25/2018	CANCELLED Felony Jury Trial (9:00 AM) (Judicial Officer Anderson, Sonna)
04/25/2018	Change of Plea
02/21/2018	02/21/2018 Reset by Court to 04/25/2018
05/30/2018	Notice of Motion to Amend Judgment
05/30/2018	Motion to Modify an Order Index # 17
05/30/2018	Motion to Amend Judgment
05/30/2018	Exhibit Index # 18
05/30/2018	State's Exhibit 1 (Forensic Accounting Report)
05/30/2018	Proposed Order Index # 19
05/30/2018	(Proposed) Order to Amend Judgment (K.Neurfeld)
05/30/2018	Service of Motion Index # 20
06/08/2018	Affidavit of Service (Nathan Hillbichuk)
06/08/2018	Letter Index # 21
06/18/2018	Email with Judge and Nathan Hillbichuk
06/18/2018	Notice of Hearing Index # 22
06/18/2018	- Restitution Hearing
08/15/2018	Order Index # 23
08/30/2018	Transcript Index # 24
08/30/2018	Change of Plea Hearing April 16, 2018
09/20/2018	Notice of Appearance of Monte Rognedy for Victims Josh Olson and New Freedom Center
09/20/2018	Service Document Index # 26
09/27/2018	Affidavit of Service Upon Karlei Neufeld
09/27/2018	Restitution Hearing (8:30 AM) (Judicial Officer Bahr, Douglas A.)
09/27/2018	Result: Hearing Ended
09/27/2018	Exhibit Index # 27
09/27/2018	Exhibit #: #1, Exhibit Description: Forensic Accounting Report. (Received)State
09/27/2018	Exhibit #: #2, Exhibit Description: Transaction Listing. (Received)State
10/10/2018	Order Index # 30
10/10/2018	Exhibit #: #3, Exhibit Description: Eide Bailly Bill. (Received)State
05/17/2021	Petition for Revocation of Probation
05/17/2021	Proposed Order Index # 32





**REQUEST FOR NET WORTH STATEMENT FINANCIAL RECORDS**

OFFENDER'S FULL NAME

DOCKET NUMBER

All entries on the Net Worth Statement must be accompanied by supporting documentation. Provide the probaton officer with all records listed below that are applicable to your financial statements, along with your completed Net Worth Statement by the close of business

**ASSETS**

**Section A – Bank Accounts**

- ◆ Most recent bank account statements (e.g., checking, savings, credit union, money market, brokerage, Certificate of Deposit, IRA, ROTH IRA, KEOGH, 401K, or thrift savings account) for a three-month period.

**Section B – Securities**

- ◆ Most recent securities account statements (e.g., brokerage, annuities, life insurance) for a three-month period.

**Section C – Notes & Accounts Receivable**

- ◆ Copy of signed note receivable.

**Section D – Life Insurance**

- ◆ Copy of all life insurance policies (e.g., whole life, variable life, term).

**Section E – Safe Deposit Boxes or Storage Facilities**

- ◆ Copy of most recent rental invoice for all safe deposit boxes or storage facility rentals within the past year, including receipts or verification of content value.

**Section F – Motor Vehicles**

- ◆ Copy of vehicle registration and title for all vehicles owned or leased.

**Section G – Real Estate**

- ◆ Copy of purchase agreement, deeds, and escrow statement for all real property.

**Section H – Mortgage Loans Owed To You**

- ◆ Copy of the sales agreement and escrow statement for all real property.

**Section I – Other Assets**

- ◆ Copy of purchase invoice and appraisal (if already previously obtained), and documentation to verify the fair market value of the asset.

**Section J – Anticipated Assets**

- ◆ Copy of documentation to verify future receipt of anticipated asset, (e.g., claim or lawsuit filings, profit sharing plan and current statement, pension plan and current statement, inheritance documents, copy of all trusts, trust income tax returns), and most recent accounting reflecting the value of your interest and income from the trust.

**Section K – Business Holdings**

- ◆ In addition to providing the information requested in Section K and completing Section N, provide copies of all income tax returns for each business you had an ownership interest in (e.g., shareholder, partner, proprietor) or an affiliation with (e.g., officer, director, board member, agent, associate) within the last five years. Also provide all financial statements for each business, prepared by you or your accountant, within the past five years.

**Business Accounts Receivable**

- ◆ Copy of current month's billing statements that verify business accounts receivable.

**Business Accounts Payable**

- ◆ Copy of current month's vendor invoices that verify business accounts payable.

**Section L – Income Tax Returns**

- ◆ Copy of the five most recent years' income tax returns filed for: Individual (Form 1040), Partnership (Form 1065), Corporation (Form 1120), S Corporation (Form 1120S), and Limited Liability Company (Form 1065). Be sure to include all related schedules and forms. Provide a written explanation for any returns not filed.

**Section M – Transfer of Assets**

- ◆ Copy of the bill of sale, documentation of funds received from sale (e.g., a personal or business check, cashiers check or money order), copy of vehicle registration and title of sold vehicle, and escrow closing statements for any real estate sold since the date of your arrest.

**Section N – Names of Shareholders or Partners**

- ◆ Copy of Articles of Incorporation for all corporations you own or have an interest in. Copy of partnership agreement for all partnerships you have an ownership interest in.

**Section O – Assets You Will Liquidate**

- ◆ Assets available for payment of criminal monetary penalties

**REQUEST FOR NET WORTH STATEMENT FINANCIAL RECORDS (cont.)**

**LIABILITIES**

<p><b>OTHER RECORDS REQUESTED</b></p>	<p><b>Section A – Charge Accounts</b></p> <ul style="list-style-type: none"> <li>◆ Copy of most current billing statement for all charge accounts (e.g., credit cards, revolving charge cards, and department store cards) and lines of credit (e.g., bank line of credit).</li> <li><b>Section B – Other Debts</b></li> <li>◆ Copy of all notes payable, mortgage loans, current statement of delinquent taxes due, and statements documenting child support/alimony obligations and payment history.</li> <li><b>Section C – Party to Civil Suit</b></li> <li>◆ Copy of all civil suit filings and judgments.</li> <li>◆ <b>Section D – Bankruptcy Filings</b></li> <li>◆ Copy of all bankruptcy filings including petition, financial statements submitted, final judgment and order of discharge.</li> </ul>
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**ADDITIONAL INSTRUCTIONS:**

A personal interview has been scheduled for you with:

U.S. Probation Officer \_\_\_\_\_ on \_\_\_\_\_ Date

at \_\_\_\_\_ Office Location \_\_\_\_\_ Time \_\_\_\_\_

\_\_\_\_\_ Telephone \_\_\_\_\_

Print

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### Instructions for Completing Net Worth Statement

Last Name	First Name	Middle Name	Social Security Number

Having been convicted in the United States District Court, you are required to prepare and file with the probation officer an affidavit fully describing your financial resources, including a complete listing of all assets you own or control as of this date and any assets you have transferred or sold since your arrest. Amendments were made to 18 U.S.C. §§ 3663(a)(1)(B)(i), 3664(d)(3), and 3664(f)(2), and Rule 32(b)(4)(F) to clarify that the assets owned, jointly owned, or controlled by a defendant, and liabilities are all relevant to the court's decision regarding the ability to pay. Your Net Worth Statement should include assets or debts that are yours alone (I-Individual), assets or debts that are jointly held by you and a spouse or significant other, assets or debts that are held by a spouse or significant other (S-Spouse or Significant Other) that you enjoy the benefits of or make occasional contributions toward, and assets or debts that are held by a dependent (D-Dependent) that you enjoy the benefits of or make occasional contributions toward.

If you are placed on probation or supervised release (or other types of supervision), you may be periodically required to provide updated information fully describing your financial resources and those of your dependents, as described above, to keep a probation officer informed concerning compliance with any condition of supervision, including the payment of any criminal monetary penalties imposed by the court (see 18 U.S.C. § 3603).

Please complete the Net Worth Statement in its entirety. You must answer "None" to any item that is not applicable to your financial condition. Attach additional pages if you need more space for any item. All entries must be accompanied by supporting documentation (see Request for Net Worth Statement Financial Records (Prob. 48A)). Initial and date each page (including any attached pages). Also, sign, date, and attach the Declaration of Defendant or Offender Net Worth & Cash Flow Statements (Prob. 48D).



Last Name - \_\_\_\_\_

## NET WORTH STATEMENT

NOTE: I = Individual J = Joint S = Spouse/Significant Other D = Dependent

### ASSETS

BANK ACCOUNTS (Include all personal and businesses checking and savings accounts, credit unions, money markets, certificates of deposit, IRA and KEOGH accounts, Thrift Savings, 401K, etc.)

I/J	S/D	Name of Institution	Address	Type of Account	Account Number	Personal or Commercial	Balance

Section A

SECURITIES (Include all stocks in public corporations, stocks in businesses you own or have an interest in, bonds, mutual funds, U.S. Government securities, etc.)

I/J	S/D	Name and Kind of Security	Location of Security	Number of Units	Fair Market Value

Section B

MONEY OWED TO YOU BY OTHERS (Include all money owed to you by any person or entity.)

I/J	S/D	Name and Address of Debtor	Amount Owed to You	Reason Owed to You	Date Money Loaned	Relationship to Debtor (if any)	Monthly Payment or Date Full Payment Expected	Is Debt Collectible?

Section C

Initials \_\_\_\_\_ Date \_\_\_\_\_



Last Name - \_\_\_\_\_

**OTHER ASSETS** (Include any cash on hand, jewelry, art, paintings, coin collections, stamp collections, collectibles, antiques, copyrights, patents, etc.)

I/J	S/D	Description	Loan Balance (if any)	Date Loan Will be Paid Off	Monthly Payment	Where is Asset Located?	Fair Market Value

Section I

**ANTICIPATED ASSETS** (Include any assets you expect to receive or control from lawsuits for compensation or damages, profit sharing, pension plans, inheritance, wills, or as an executor or administrator of any succession or estate.)

I/J	S/D	Amount Received or Expected to Receive	Date Expected to Receive	Reason You Expect This	Name and Address of Person or Company That Can Verify This (e.g., attorney, financial institution, executor)

Section J

**TRUST ASSETS** (Include all trusts in which you are a grantor or donor [the person who establishes the trust], the trustee or fiduciary [who controls the trust assets and income or the beneficiary who has or will receive benefits from the trust].)

I/J	S/D	Name of Trust/ Taxpayer ID#	Value of Trust	Your Annual Income From Trust	Your Interest in Trust Assets

**BUSINESS HOLDINGS** (Include all businesses in which you have an ownership interest or with which you had an affiliation within the last three years; e.g., self-employed sole proprietor, officer, shareholder, board member, partner, associate, etc.) Complete Section N (attach additional pages, if necessary).

I/J	S/D	Name and Address of Business/ Taxpayer I.D.#	Type of Business Entity	Industry of Business	Date Business Started	Capital Investment to Start	Your Ownership Interest Percentage	Sale Price or Fair Market Value of Your Interest

Section K

Initials \_\_\_\_\_ Date \_\_\_\_\_







# REQUEST FOR MONTHLY CASH FLOW STATEMENT FINANCIAL RECORDS

DEFENDANT'S FULL NAME

DOCKET NUMBER

All entries on the Cash Flow Statement must be accompanied by supporting documentation. Provide the probation officer with all records listed below are applicable to your financial statements, along with your completed Cash Flow Statement by the close of business \_\_\_\_\_.

## MONTHLY CASH INFLOWS

- ◆ Salary/Wages  
Copy of all W-2 forms submitted with the prior year income tax return.
- ◆ Cash Advances  
Copy of all pay stubs documenting cash advances.
- ◆ Cash Bonuses  
Copy of all pay stubs documenting cash bonuses, and copy of related 1099 form.
- ◆ Commissions  
Copy of all 1099 forms submitted with the prior year income tax return.
- ◆ Business Income  
Copy of the past six monthly financial statements of all businesses owned or controlled by the defendant. Also, be sure to provide all financial information requested in the "Assets" portion of the "Net Worth Statement" under "Section K, Business Holdings."  
Copy of most recent earnings statement from a financial institution (e.g., bank, brokerage firm, etc.). Copy of all 1099-INT forms, reporting annual interest earnings, for the past year.
- ◆ Rental Income  
Copy of lease rental agreement, copy of monthly bank statement, and copy of the deposit on the defendant's monthly bank statement.
- ◆ Trust Income  
Copy of the monthly trust income check, copy of the trust agreement, and a copy of the trust income tax return for the prior year.
- ◆ Alimony/Child Support  
Copy of divorce decree, copy of payments received, and statements documenting child support/alimony obligations with payment history.
- ◆ Social Security  
Copy of most recent Social Security check and most recent benefits determination letter.
- ◆ Other Government Benefits  
Copy of most recent government subsidy check (e.g., unemployment compensation, food stamps) or online payment and most recent benefits determination letter.
- ◆ Pensions/Annuities  
Copy of pension/annuity check, copy of most recent pension plan activity statement or annuity statement, and copy of pension plan or annuity contract.
- ◆ Allowances (housing, auto, travel)  
Copy of related pay stub, 1099 form for prior year, and possibly a letter from the employer on company letterhead.

- ◆ Gratuities/Tips  
Copy of current month's pay stubs, letter from employer estimating monthly gratuities earned, and W-2 form for the prior year.
- ◆ Spouse (Significant Other's) Salary/Wages  
Copy of all W-2 forms submitted with the prior year income tax return.  
Copy of all pay stubs for the most recent one-month period.
- ◆ Other Joint Spousal Income  
Documentation verifying any monthly income jointly earned with the spouse or significant other, (e.g., income from the spouse or significant other or income from a business owned or controlled by the spouse or significant other, that the offender has a joint ownership interest in, or controls).
- ◆ Income of Others in the Home  
Verification of the monthly earnings of all others living in the offender's household (e.g., all pay stubs for the prior month, W-2 forms, and 1099 forms for the prior year), paid receipts or canceled checks for necessary monthly household expenditures (e.g., for food, room rental, telephone, transportation, etc.) actually paid by this person on behalf of the offender.
- ◆ Gifts From Family  
A signed and dated statement from the family member who gave gifts to the offender during the month, listing the amounts, dates and reasons given, and a copy of the check received, if any.
- ◆ Gifts From Others  
A signed and dated statement from the person(s) who gave gifts to the offender during the month, listing the amounts, dates and reasons given, and a copy of the check received, if any. Gifts over a certain amount require tax forms declaring the income.
- ◆ Loans From Your Business  
Copy of the past six monthly financial statements of all businesses owned or controlled by the offender that loaned money to the offender, including a detailed schedule of the "Loans To Shareholder/Owner" or "Due From Shareholder/Owner" general ledger accounts.
- ◆ Mortgage Loans  
Copy of all mortgage checks received during the prior month, 1099 forms submitted with the prior year tax return, and copy of the sales agreement and escrow statement for all mortgage loans owed to the offender.
- ◆ Other Loans  
Copy of loan documentation and copy of all loan checks received during the prior month.
- ◆ Other (Specify)  
Documentation verifying the source of all other monthly cash inflows (not yet disclosed or reported in these financial statements) and copy of all related monthly checks received.

### Instructions for Completing Monthly Cash Flow Statement

Last Name	First Name	Middle Name	Social Security Number

Having been convicted in the United States District Court, you are required to prepare and file with the probation officer a statement fully describing your financial resources, including a complete listing of all monthly cash inflows and outflows.

If you are placed on probation or supervised release (or other types of supervision), you may be periodically required to provide updated information fully describing your financial resources and those of your spouse, significant others, or dependents, as described above, to keep a probation officer informed concerning compliance with any condition of supervision, including the payment of any criminal monetary penalties imposed by the court (see 18 U.S.C. § 3603).

Amendments were made to 18 U.S.C. §§ 3663 (a)(1)(B)(i), 3664(d)(3), and 3664(f)(2), and Rule 32(b)(4)(F) to clarify that the assets owned, jointly owned, or controlled by a defendant; liabilities, and the financial needs and earning ability of a defendant and a defendant's dependents are all relevant to the court's decision regarding a defendant's ability to pay. Your Cash Flow Statement should include assets or debts that are yours alone (I-Individual), assets or debts that are jointly held by you and a spouse or significant other, assets or debts that are held by a spouse or significant other (S-Spouse or Significant Other) that you enjoy the benefits of or make occasional contributions toward, and assets or debts that are held by a dependent (D-Dependent) living in your home that you enjoy the benefits of or make occasional contributions toward.

Please complete the Monthly Cash Flow Statement in its entirety. You must answer "None" to any item that is not applicable to your financial condition. Attach additional pages if you need more space for any item. All entries must be accompanied by supporting documentation (see Request for Cash Flow Statement Financial Records (Prob. 48C)). Initial and date each page (including any attached pages) and sign and date the last page of the Cash Flow Statement.



**MONTHLY CASH FLOW STATEMENT**

Last Name -

**Monthly Cash Inflows**

Defendant		Gross	Net
Your Salary/Wages (List both monthly gross earnings and take-home pay after payroll deductions.)			
Your Cash Advances (List all payroll advances or other advances from work.)			
Your Cash Bonuses (List all payments from work in addition to your salary that are not an advance.)			
Commissions (List all non-employee earnings as an independent contractor.)			
Business Income (List both monthly gross income and net income after deducting expenses.)			
Interest (List all interest earned each month.)			
Dividends (List all dividends earned each month.)			
Rental Income (List all monthly income received from real estate properties owned.)			
Trust Income (List all trust income earned each month.)			
Alimony/Child Support (List all alimony or child support payments received each month.)			
Social Security (List all payments received from Social Security.)			
Other Government Benefits (List all amounts received from the government not yet reported (e.g., Aid to Families with Dependent Children.)			
Pensions/Annuities (List all funds received from pensions and annuities each month.)			
Allowances-Housing/Auto/Travel (List all funds received from housing allowances, auto allowances, travel allowances, and any other kind of allowance.)			
Gratuities/Tips (List all gratuities and tips received each month from any and all sources.)			
Spouse/Significant Other Salary/Wages (List all gross and net monthly salary and wages received by your spouse or significant other.)			
Other Joint Spousal Income (List any monthly income jointly earned with your spouse or significant other [e.g., any income from spouse or income from a business owned or operated by the spouse that you have a joint ownership interest in or control].)			
Income of Other In-House (List all monthly income of others living in the household or the monthly amount actually paid for household bills by these persons.)			
Gifts from Family (List all amounts received as gifts from family members each month.)			
Gifts from Others (List all gifts received from any sources not yet reported.)			
Loans from Your Business (List all loan amounts received each month from all businesses owned or controlled by you.)			
Mortgage Loans (List all amounts received each month from mortgage loans owed to you.)			
Other Loans (List all other loan amounts received each month not yet reported.)			
Other (specify) (List all other amounts received each month not yet reported.)			
<b>TOTALS</b>			

Last Name -

**Necessary Monthly Cash Outflows**

Amount

Rent or Mortgage (List monthly rental payment or mortgage payment.)

Groceries (List the total monthly amount paid for groceries and number of people in your household.) #

Utilities (List the monthly amount paid for electric, heating oil/gas, water/sewer, telephone, and basic cable.)

Electric

Heating Oil/Gas

Water/Sewer

Telephone

Basic Cable (no premium channels)

Transportation (List monthly amount paid for gasoline, motor oil, necessary auto repairs, or the cost of public transportation.)

Insurance (List the monthly amount paid for auto, health, homeowner/rental, and life insurance.)

Auto

Health

Homeowner/Rental

Life

Clothing (List the monthly amount actually paid for clothing.)

Loan Payments (List all monthly amounts paid toward verified loans, other than loans to family members, which are non-allowable expenses.)

Credit Card Payments (List all monthly credit card or charge card payments.)

Medical (List all monthly payments for necessary medical care or treatment.)

Alimony/Child Support (List all alimony or child support payments made each month.)

Co-payments (List the total monthly payments made for electronic monitoring and drug and mental health treatment.)

Other (specify) (List all other necessary monthly amounts paid each month not yet reported.)

Other Factors That May Affect Monthly Cash Flow (Describe)

TOTAL

NET MONTHLY CASH FLOW: \$

(CASH INFLOWS LESS NECESSARY CASH OUTFLOWS)  
MONTHLY CRIMINAL MONETARY PENALTY PAYMENT: \$

PROSPECT OF INCREASE IN CASH INFLOWS (Give a general statement of the prospective increase of the value of any cash inflows reported.)

Signature

Date

Last Name SSN First Name SID Middle Name

**Instructions for Completing Monthly Cash Flow Statement**

Having been convicted in the United States District Court, you are required to prepare and file with the probation officer a statement fully describing your financial resources, including a complete listing of all monthly cash inflows and outflows.

If you are placed on probation or supervised release (or other types of supervision), you may be periodically required to provide updated information fully describing your financial resources and those of your spouse, significant others, or dependents, as described above, to keep a probation officer informed concerning compliance with any condition of supervision, including the payment of any criminal monetary penalties imposed by the court (see 18 U.S.C. § 3603).

Your Cash Flow Statement should include assets or debts that are yours alone (I-Individual), assets or debts that are jointly (J-Joint) held by you and a spouse or significant other, assets or debts that are held by a spouse or significant other (S-Spouse or Significant Other) that you enjoy the benefits of or make occasional contributions toward, and assets or debts that are held by a dependent (D-Dependent) living in your home that you enjoy the benefits of or make occasional contributions toward.

Please complete the Monthly Cash Flow Statement in its entirety. You must answer "None" to any item that is not applicable to your financial condition. Attach additional pages if you need more space for any item. All entries must be accompanied by supporting documentation (see Request for Cash Flow Statement Financial Records (Prob. 48C)). Initial and date each page (including any attached pages) and sign and date the last page of the Cash Flow Statement.

# Monthly Cash Flow Statement

## Monthly Cash Inflows

### Defendant Gross Net

**Your Salary/Wages** (List both monthly gross earnings and take-home pay after payroll deductions.)

**Your Cash Advances** (List all payroll advances or other advances from work.)

**Your Cash Bonuses** (List all payments from work in addition to your salary that are not an advance.)

**Commissions** (List all non-employee earnings as an independent contractor.)

**Business Income** (List both monthly gross income and net income after deducting expenses.)

**Interest** (List all interest earned each month.)

**Dividends** (List all dividends earned each month.)

**Rental Income** (List all monthly income received from real estate properties owned.)

**Trust Income** (List all trust income earned each month.)

**Alimony/Child Support** (List all alimony or child support payments received each month.)

# Necessary Monthly Cash Outflows

- Totals**
- Social Security** (List all payments received from Social Security.)
- Other Government Benefits** (List all amounts received from the government not yet reported (e.g., Food stamps and unemployment compensation))
- Pensions/Annuities** (List all funds received from pensions and annuities each month.)
- Allowances-Housing/Auto/Travel** (List all funds received from housing allowances, auto allowances, travel allowances, and any other kind of allowance.)
- Gratuities/Tips** (List all gratuities and tips received each month from any and all sources.)
- Spouse/Significant Other Salary/Wages** (List all gross and net monthly salary and wages received by your spouse or significant other.)
- Other Joint Spousal Income** (List any monthly income jointly earned with your spouse or significant other [e.g., any income from spouse or income from a business owned or operated by the spouse that you have a joint ownership interest in or control].)
- Income of Other In-House** (List all monthly income of others living in the household or the monthly amount actually paid for household bills by these persons.)
- Gifts from Family** (List all amounts received as gifts from family members each month.)
- Gifts from Others** (List all gifts received from any sources not yet reported.)
- Loans from Your Business** (List all loan amounts received each month from all businesses owned or controlled by you.)
- Mortgage Loans** (List all amounts received each month from mortgage loans owed to you.)
- Other Loans** (List all other loan amounts received each month not yet reported.)
- Other** (specify) (List all other amounts received each month not yet reported.)

- Rent or Mortgage** (List monthly rental payment or mortgage payment.)
- Groceries** (List the total monthly amount paid for groceries and number of people in your household.)
- Utilities** (List the monthly amount paid for electric, heating oil/gas, water/sewer, telephone, and basic cable.)
- Electric**
- Heating Oil/Gas**
- Water/Sewer**
- Telephone/Internet**
- Cable**
- Public Transportation** (List monthly amount paid for public transportation.)
- Car Payments** (List all payments made to purchase or lease vehicles.)
- Commuting Expenses** (List monthly amount paid for gasoline, tolls etc.)
- Auto Insurance** (List the monthly amount paid for auto, health, homeowner/rental, and life insurance.)
- Health Insurance** (List the monthly amount paid for homeowner/rental.)
- Homeowner/Rental Insurance** (List the monthly amount paid for homeowner/rental insurance.)
- Clothing** (List the monthly amount actually paid for clothing.)
- Loan Payments** (List all monthly amounts paid toward verified loans, other than loans to family members, which are non-allowable expenses.)
- Credit Card Payments** (List all minimum monthly credit card or charge card payments.)
- Medical** (List all expenses not covered by insurance.)
- Alimony/Child Support** (List all alimony or child support payments made each month.)
- Criminal Monetary Penalty** (List all monthly payments for court-ordered criminal monetary penalties.)
- Court-ordered Costs** (List the total monthly payments made for location monitoring and drug and mental health treatment.)
- Other** (specify) (List all other necessary monthly amounts paid each month not yet reported.)
- Other Factors That May Affect Monthly Cash Flow** (Describe)

**TOTAL**  
**NET MONTHLY CASH FLOW: \$** (CASH INFLOWS LESS NECESSARY CASH OUTFLOWS)  
**Monthly Criminal Monetary Penalty Payment: \$**

**PROSPECT OF INCREASE IN CASH INFLOWS** (Give a general statement of the prospective increase of

the value of any cash inflows reported.)

Signature

Date

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

**HOUSE BILL NO. 1041**

1 A BILL for an Act to amend and reenact section 12.1-32-08 of the North Dakota Century Code,  
2 relating to restitution.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-32-08 of the North Dakota Century Code is

5 amended and reenacted as follows:

6 **12.1-32-08. Hearing prior to ordering restitution, reparation, or reimbursement of  
7 indigent defense costs and expenses - Conditions - Collection of restitution for  
8 insufficient funds checks - Continuing appropriation.**

9 1. ~~Before imposing restitution or reparation as a sentence or condition of probation, the  
10 court shall hold a hearing on the matter with notice to the prosecuting attorney and to  
11 the defendant as to the nature and amount of restitution. The court, when sentencing a  
12 person adjudged guilty of criminal activities that have resulted in pecuniary damages,  
13 in addition to any other sentence the court may impose, shall order that the defendant  
14 make restitution to the victim or other recipient as determined by the court. Restitution  
15 must include payment to the owner of real property that is contaminated by the  
16 defendant in the manufacturing of methamphetamine for the cost of removing the  
17 contamination and returning the property to the property's condition before  
18 contamination and to any other person that has incurred costs in decontaminating the  
19 property. In determining the amount of restitution, the court shall take into account the  
20 reasonable damages sustained by the victim or victims of the criminal offense, which  
21 damages are limited to those directly related to the criminal offense and expenses  
22 actually incurred as a direct result of the defendant's criminal action. This can include  
23 an amount equal to the cost of necessary and related professional services and  
24 devices relating to physical, psychiatric, and psychological care. The defendant may~~

1 be required as part of the sentence imposed by the court to pay the prescribed  
2 treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and  
3 12.1-27.2. The court shall fix the amount of restitution or reparation and shall fix the  
4 manner of performance of any condition or conditions of probation established  
5 pursuant to this subsection. The court shall order restitution be paid to the division of  
6 adult services for any benefits the division has paid or may pay under chapter 54-23.4  
7 unless the court, on the record, directs otherwise. Any payments made pursuant to the  
8 order must be deducted from damages awarded in a civil action arising from the same  
9 incident. An order that a defendant make restitution or reparation as a sentence or  
10 condition of probation may, unless the court directs otherwise, be filed without filing  
11 fee, transcribed, and enforced by the person entitled to the restitution or reparation or  
12 by the division of adult services in the same manner as civil judgments rendered by  
13 the courts of this state may be enforced. Upon thirty days' written notice to the victim's  
14 last known address, the court may order the judgment imposing a duty to pay  
15 restitution or reparation be docketed in the same manner as a civil judgment under  
16 section 29-26-22.1.

17 2. If the court has retained jurisdiction for claims of restitution, to make a claim for  
18 restitution, the victim shall submit information by affidavit or declaration and, as  
19 applicable, documentary evidence. The information submitted must describe the items  
20 or elements of loss, itemize the total dollar amounts of restitution claimed, and present  
21 facts and evidence sufficient to support a finding the restitution is directly related to the  
22 offense and the amount awarded. The prosecutor shall serve the defendant with a  
23 copy of the information submitted by the victim no later than sixty days following  
24 sentencing.

25 3. The defendant may challenge restitution but must do so by requesting a hearing within  
26 thirty days of being served with the written notification of the amount of restitution  
27 requested. The hearing request must be made in writing and filed with the court, if no  
28 hearing is requested, the court may enter a judgment ordering restitution. A defendant  
29 may not challenge restitution after the thirty day time period has passed.

30 4. In determining the amount of restitution, the court shall take into account the  
31 reasonable damages sustained by the victim or victims of the criminal offense, which

1 damages are limited to those directly related to the criminal offense and expenses  
2 actually sustained as a direct result of the defendant's criminal action. This can include  
3 an amount equal to the cost of necessary and related professional services and  
4 devices relating to physical, psychiatric, and psychological care. The defendant may  
5 be required as part of the sentence imposed by the court to pay the prescribed  
6 treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and  
7 12.1-27.2. The court shall fix the amount of restitution or reparation and shall fix the  
8 manner of performance of any condition or conditions of probation established  
9 pursuant to this subsection. The court shall order restitution be paid to the division of  
10 adult services for any benefits the division has paid or may pay under chapter 54-23.4  
11 unless the court, on the record, directs otherwise. Any payments made pursuant to the  
12 order must be deducted from damages awarded in a civil action arising from the same  
13 incident.

14 5. An order that a defendant make restitution or reparation as a sentence or condition of  
15 probation, unless the court directs otherwise, may be filed without filing fee.  
16 transcribed, and enforced by the person entitled to the restitution or reparation or by  
17 the division of adult services in the same manner as civil judgments rendered by the  
18 courts of this state may be enforced. Upon thirty days' written notice to the victim's last  
19 known address, the court may order the judgment imposing a duty to pay restitution or  
20 reparation be docketed in the same manner as a civil judgment under section  
21 29-26-22.1.

22 6. When the restitution ordered by the court under subsection 1 is the result of a finding  
23 that the defendant issued a check or draft without sufficient funds or without an  
24 account, the court shall impose as costs the greater of the sum of ten dollars or an  
25 amount equal to twenty-five percent of the amount of restitution ordered. The costs  
26 imposed under this subsection, however, may not exceed one thousand dollars. The  
27 state-employed clerks of district court shall remit the funds collected as costs under  
28 this subsection to the state treasurer for deposit in the restitution collection assistance  
29 fund. The funds deposited into the restitution collection assistance fund are  
30 appropriated to the judicial branch on a continuing basis for the purpose of defraying  
31 expenses incident to the collection of restitution, including operating expenses and the



1 compensation of additional necessary personnel. The state's attorneys and  
2 county-employed clerks of district court shall remit the funds collected as costs under  
3 this subsection to the county treasurer to be deposited in the county general fund.  
4 The court may order the defendant to perform reasonable assigned work as a  
5 condition of probation, which assigned work need not be related to the offense  
6 charged, but must not be solely for the benefit of a private individual other than the  
7 victim.  
8 4-a-8. Under section 12.1-32-07, the court may order that the defendant reimburse indigent  
9 defense costs and expenses as a condition of probation.  
10 a. Unless it finds that there is no likelihood that the defendant is or will be able to  
11 pay attorney's fees and expenses, the court, in its judgment of conviction, and in  
12 any order or amended judgment following a revocation or other postjudgment  
13 proceeding, shall notify the defendant, the defendant's probation officer, and the  
14 prosecuting attorney of the presumed amount of costs and expenses to be  
15 reimbursed, as determined by the commission on legal counsel for indigents, and  
16 of the right to a hearing on the reimbursement amount. The reimbursement  
17 amount must include an application fee imposed under section 29-07-01.1 if the  
18 fee has not been paid before disposition of the case and the court has not waived  
19 payment of the fee.  
20 b. If the defendant or prosecutor requests a hearing within thirty days of receiving  
21 notice under this subdivision, the court shall schedule a hearing at which the  
22 actual amount of attorney's fees and expenses must be shown. In determining  
23 the amount and method of reimbursement, the court shall consider the financial  
24 resources of the defendant and the nature of the burden that reimbursement of  
25 costs and expenses will impose.  
26 b-c. A defendant who is required to reimburse indigent defense costs and expenses  
27 as a condition of probation and who is not willfully in default in that  
28 reimbursement may at any time petition the court that imposed the condition to  
29 waive reimbursement of all or any portion of the costs and expenses. If the court  
30 is satisfied that reimbursement of the amount due will impose undue hardship on  
31 the defendant or the defendant's immediate family, the court may waive

1 reimbursement of all or any portion of the amount due or modify the method of  
2 payment.  
3 e.d. If at any time the court finds that the defendant is able to reimburse costs and  
4 expenses and has willfully failed to do so, the court may continue, modify, or  
5 enlarge the conditions of probation or revoke probation as provided in  
6 subsection 6 or 7, as applicable, of section 12.1-32-07.  
7 5-9. If the court finds that the defendant is unable to pay a fine, supervision fee,  
8 reimbursement for indigent defense costs and expenses, or restitution or reparations,  
9 the court may order the defendant to perform reasonable assigned work in lieu of all or  
10 part of a fine, a supervision fee, reimbursement for indigent defense costs and  
11 expenses, or restitution or reparations. The defendant may not perform reasonable  
12 assigned work in lieu of restitution or reparations unless the person entitled to  
13 restitution or reparations has consented in writing or on the record.