

HOUSE BILL NO. 1310

Introduced by

Representatives Satrom, Ostlie, Schauer

Senator Conley

1 A BILL for an Act to amend and reenact section 12.1-32-02, subsections 2 and 4 of section
2 12.1-32-07, sections 12.1-32-08, 29-07-01.1, and 29-26-22, subdivision h of subsection 5 of
3 section 39-08-01, subsection 1 of section 54-12-14, subsection 16 of section 54-23.3-04, and
4 subsection 2 of section 62.1-05-01 of the North Dakota Century Code, relating to the costs of a
5 defendant's prosecution, the cost of a presentence investigation and report, reimbursement of
6 indigent defense costs and expenses, the fee for the indigent defense services application, the
7 court administration fee, and the community service supervision fee; to repeal sections
8 12.1-32-02.2, 27-01-10, 27-05.2-08, 27-05.2-09, and 27-05.2-10 of the North Dakota Century
9 Code, relating to repayment of rewards paid by crimestoppers programs, the fee for crime
10 victim and witness programs, and the court facilities improvement and maintenance fund; and to
11 provide for application.

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

13 **SECTION 1. AMENDMENT.** Section 12.1-32-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-32-02. Sentencing alternatives - Credit for time in custody - Diagnostic testing.**

- 16 1. Every person convicted of an offense who is sentenced by the court must be
17 sentenced to one or a combination of the following alternatives, unless the sentencing
18 alternatives are otherwise specifically provided in the statute defining the offense or
19 sentencing is deferred under subsection 4:
- 20 a. ~~Payment of the reasonable costs of the person's prosecution.~~
 - 21 b. Probation.
 - 22 e.b. A term of imprisonment, including intermittent imprisonment:

- 1 (1) In a state correctional facility in accordance with section 29-27-07, in a
2 regional corrections center, or in a county jail, if convicted of a felony or a
3 class A misdemeanor.
- 4 (2) In a county jail or in a regional corrections center, if convicted of a class B
5 misdemeanor.
- 6 (3) In a facility or program deemed appropriate for the treatment of the
7 individual offender, including available community-based or faith-based
8 programs.
- 9 (4) In the case of persons convicted of an offense who are under eighteen
10 years of age at the time of sentencing, the court is limited to sentencing the
11 minor defendant to a term of imprisonment in the custody of the department
12 of corrections and rehabilitation.
- 13 d-c. A fine.
- 14 e-d. Restitution for damages resulting from the commission of the offense.
- 15 f-e. Restoration of damaged property or other appropriate work detail.
- 16 g-f. Commitment to an appropriate licensed public or private institution for treatment
17 of alcoholism, drug addiction, or mental disease or defect.
- 18 h-g. Commitment to a sexual offender treatment program.
- 19 i-h. Drug court program. A drug court is a district court supervised treatment program
20 approved by the supreme court which combines judicial supervision with alcohol
21 and drug testing and substance use disorder treatment in a licensed treatment
22 program. The supreme court may adopt rules, including rules of procedure, for
23 drug court programs.
- 24 j-i. Veterans treatment docket. A veterans treatment docket is a district court
25 supervised docket approved by the supreme court which combines judicial
26 supervision with licensed treatment programs to treat substance use disorders,
27 mental health conditions, behavioral health conditions, traumatic brain injuries,
28 military sexual trauma, and co-occurring disorders. The supreme court may adopt
29 rules, including rules of procedure, for veterans treatment dockets.
- 30 k-j. Completion of a restorative justice program. For purposes of this section,
31 "restorative justice program" means a system of justice which focuses on the

1 rehabilitation of offenders through reconciliation with victims and the community
2 at large.

3 h.k. Mental health court program. A mental health court is a district court supervised
4 treatment program approved by the supreme court which combines judicial
5 supervision with mental health services and treatment in a licensed treatment
6 program. The supreme court may adopt rules, including rules of procedure, for
7 mental health court programs.

8 Except as provided by section 12.1-32-06.1, sentences imposed under this subsection
9 may not exceed in duration the maximum sentences of imprisonment provided by
10 section 12.1-32-01, section 12.1-32-09, or as provided specifically in a statute defining
11 an offense. This subsection does not permit the unconditional discharge of an offender
12 following conviction. A sentence under subdivision d or e or f must be imposed in the
13 manner provided in section 12.1-32-08. If the person is sentenced to a term of
14 imprisonment, the court may prohibit the person from contacting the victim during the
15 term of imprisonment. For purposes of this subsection, "victim" means victim as
16 defined in section 12.1-34-01.

17 2. Credit against any sentence to a term of imprisonment must be given by the court to a
18 defendant for all time spent in custody as a result of the criminal charge for which the
19 sentence was imposed or as a result of the conduct on which such charge was based.
20 "Time spent in custody" includes time spent in custody in a jail or mental institution for
21 the offense charged, whether that time is spent ~~prior to~~before trial, during trial, pending
22 sentence, or pending appeal. The total amount of credit the defendant is entitled to for
23 time spent in custody and any credit for sentence reduction under section 12-44.1-32
24 or 12-54.1-01 the defendant is entitled to must be stated in the criminal judgment.

25 3. A court may suspend the execution of all or a part of the sentence imposed. The court
26 shall place the defendant on probation during the term of suspension.

27 4. A court, upon application or its own motion, may defer imposition of sentence. The
28 court must place the defendant on probation during the period of deferment. An order
29 deferring imposition of sentence is reviewable upon appeal from a verdict or judgment.
30 In any subsequent prosecution, for any other offense, the prior conviction for which
31 imposition of sentence is deferred may be pleaded and proved, and has the same

1 effect as if probation had not been granted or the information or indictment dismissed
2 under section 12.1-32-07.1.

3 5. A court may, ~~prior to~~before imposition of sentence, order the convicted offender
4 committed to an appropriate licensed public or private institution for diagnostic testing
5 for such period of time as may be necessary, but not to exceed thirty days. The court
6 may, by subsequent order, extend the period of commitment for not to exceed thirty
7 additional days. The court may also order such diagnostic testing without ordering
8 commitment to an institution. Validity of a sentence must not be challenged on the
9 ground that diagnostic testing was not performed pursuant to this subsection.

10 6. All sentences imposed must be accompanied by a written statement by the court
11 setting forth the reasons for imposing the particular sentence. The statement must
12 become part of the record of the case.

13 7. If an offender is sentenced to a term of imprisonment, that term of imprisonment
14 commences at the time of sentencing, unless, upon motion of the defendant, the court
15 orders the term to commence at some other time.

16 8. Unless otherwise specifically authorized in the statute defining the offense, a court
17 may not include a minimum term of imprisonment as part of its sentence.

18 9. A person who is convicted of a felony and sentenced to imprisonment for not more
19 than three hundred sixty days is deemed to have been convicted of a misdemeanor.
20 However, if an order is entered revoking a term of probation that was imposed as part
21 of a sentence, the person is deemed to have been convicted of a felony.

22 ~~10. A court shall order a defendant to pay fifty dollars to the department of corrections and~~
23 ~~rehabilitation at the time a presentence investigation is initiated to partially defray the~~
24 ~~costs incurred by the department for the preparation of the presentence report. The~~
25 ~~court may also order that any additional costs incurred by the department relating to~~
26 ~~the presentence investigation and report be paid by the defendant at a rate of~~
27 ~~payment up to the full costs of conducting the investigation and preparing the report as~~
28 ~~established by the department.~~

29 ~~11.~~ Before sentencing a defendant on a felony charge under section 12.1-20-03,
30 12.1-20-03.1, 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a
31 court shall order the department of corrections and rehabilitation to conduct a

1 presentence investigation and to prepare a presentence report. A presentence
2 investigation for a charge under section 12.1-20-03 must include a risk assessment. A
3 court may order the inclusion of a risk assessment in any presentence investigation. In
4 all felony or class A misdemeanor offenses, in which force, as defined in section
5 12.1-01-04, or threat of force is an element of the offense or in violation of section
6 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence
7 investigation has been ordered, must receive a criminal record report before the
8 sentencing of the defendant. Unless otherwise ordered by the court, the criminal
9 record report must be conducted by the department of corrections and rehabilitation
10 after consulting with the prosecuting attorney regarding the defendant's criminal
11 record. The criminal record report must be in writing, filed with the court before
12 sentencing, and made a part of the court's record of the sentencing proceeding.

13 **SECTION 2. AMENDMENT.** Subsection 2 of section 12.1-32-07 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 2. The conditions of probation must be such as the court in its discretion deems
16 reasonably necessary to ensure that the defendant will lead a law-abiding life or to
17 assist the defendant to do so. The court shall provide as an explicit condition of every
18 probation that the defendant not commit another offense during the period for which
19 the probation remains subject to revocation. ~~The court shall order supervision costs
20 and fees of not less than fifty-five dollars per month unless the court makes a specific
21 finding on record that the imposition of fees will result in an undue hardship. If the
22 offender has not paid the full amount of supervision fees and costs before completion
23 or termination of probation, the court may issue an order, after opportunity for hearing,
24 to determine the amount of supervision fees and costs that are unpaid. The order may
25 be filed, transcribed, and enforced by the department of corrections and rehabilitation
26 in the same manner as civil judgments rendered by a district court of this state.~~

27 **SECTION 3. AMENDMENT.** Subsection 4 of section 12.1-32-07 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 4. When imposing a sentence to probation, probation in conjunction with imprisonment,
30 or probation in conjunction with suspended execution or deferred imposition of

- 1 sentence, the court may impose such conditions as it deems appropriate and may
2 include any one or more of the following:
- 3 a. Work faithfully at a suitable employment or faithfully pursue a course of study or
4 of career and technical education training that will equip the defendant for
5 suitable employment.
 - 6 b. Undergo available medical or psychiatric treatment and remain in a specified
7 institution if required for that purpose.
 - 8 c. Attend or reside in a facility established for the instruction, recreation, or
9 residence of persons on probation.
 - 10 d. Support the defendant's dependents and meet other family responsibilities.
 - 11 e. Make restitution or reparation to the victim of the defendant's conduct for the
12 damage or injury which was sustained or perform other reasonable assigned
13 work. When restitution, reparation, or assigned work is a condition of probation,
14 the court shall proceed as provided in subsection 1 or 2, as applicable, of section
15 12.1-32-08.
 - 16 f. Pay a fine imposed after consideration of the provisions of section 12.1-32-05.
 - 17 g. Refrain from excessive use of alcohol or any use of narcotics or of another
18 dangerous or abusable drug without a prescription.
 - 19 h. Permit the probation officer to visit the defendant at reasonable times at the
20 defendant's home or elsewhere.
 - 21 i. Remain within the jurisdiction of the court, unless granted permission to leave by
22 the court or the probation officer.
 - 23 j. Answer all reasonable inquiries by the probation officer and promptly notify the
24 probation officer of any change in address or employment.
 - 25 k. Report to a probation officer at reasonable times as directed by the court or the
26 probation officer.
 - 27 l. Submit to a medical examination or other reasonable testing for the purpose of
28 determining the defendant's use of narcotics, marijuana, or other controlled
29 substance whenever required by a probation officer.
 - 30 m. Refrain from associating with known users or traffickers in narcotics, marijuana,
31 or other controlled substances.

- 1 n. Submit the defendant's person, place of residence, or vehicle to search and
2 seizure by a probation officer at any time of the day or night, with or without a
3 search warrant.
- 4 o. Serve a term of imprisonment of up to one-half of the maximum term authorized
5 for the offense of which the defendant was convicted.
- 6 p. ~~Reimburse the costs and expenses determined necessary for the defendant's~~
7 ~~adequate defense when counsel is appointed or provided at public expense for~~
8 ~~the defendant. When reimbursement of indigent defense costs and expenses is~~
9 ~~imposed as a condition of probation, the court shall proceed as provided in~~
10 ~~subsection 4 of section 12.1-32-08.~~
- 11 q. Provide community service for the number of hours designated by the court.
- 12 r-q. Refrain from any subscription to, access to, or use of the internet.

13 **SECTION 4. AMENDMENT.** Section 12.1-32-08 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12.1-32-08. Hearing ~~prior to before~~ ordering restitution; or reparation; ~~or~~**
16 **~~reimbursement of indigent defense costs and expenses - Conditions - Collection of~~**
17 **~~restitution for insufficient funds checks - Continuing appropriation.~~**

- 18 1. The court, when sentencing a person adjudged guilty of criminal activities that have
19 resulted in pecuniary damages, in addition to any other sentence the court may
20 impose, shall order that the defendant make restitution to the victim or other recipient
21 as determined by the court. Restitution must include payment to the owner of real
22 property that is contaminated by the defendant in the manufacturing of
23 methamphetamine for the cost of removing the contamination and returning the
24 property to the property's condition before contamination and to any other person that
25 has incurred costs in decontaminating the property.
- 26 2. If the court has retained jurisdiction after the sentencing hearing for claims of
27 restitution, to make a claim for restitution, the victim shall submit information by
28 affidavit or declaration and, as applicable, documentary evidence within the time
29 specified in the order. The information submitted must describe the items or elements
30 of loss, itemize the total dollar amounts of restitution claimed, and present facts and
31 evidence sufficient to support a finding the restitution is directly related to the offense

1 and the amount awarded. The prosecutor shall serve the defendant with a copy of the
2 information submitted by the victim no later than sixty days following sentencing.

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

8 4. In determining the amount of restitution, the court shall take into account the
9 reasonable damages sustained by the victim or victims of the criminal offense, which
10 damages are limited to those directly related to the criminal offense and expenses
11 actually sustained as a direct result of the defendant's criminal action. This can include
12 an amount equal to the cost of necessary and related professional services and
13 devices relating to physical, psychiatric, and psychological care. The defendant may
14 be required as part of the sentence imposed by the court to pay the prescribed
15 treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and
16 12.1-27.2. The court shall fix the amount of restitution or reparation and shall fix the
17 manner of performance of any condition or conditions of probation established
18 pursuant to this subsection. The court may order the defendant to disclose income and
19 assets on forms developed by the state court administrator to facilitate the setting of
20 an appropriate payment plan. The court shall order restitution be paid to the division of
21 adult services for any benefits the division has paid or may pay to the victim under
22 chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments
23 made pursuant to the order must be deducted from damages awarded in a civil action
24 arising from the same incident.

25 5. An order that a defendant make restitution or reparation as a sentence or condition of
26 probation, unless the court directs otherwise, may be filed without filing fee,
27 transcribed, and enforced by the person entitled to the restitution or reparation or by
28 the division of adult services in the same manner as civil judgments rendered by the
29 courts of this state may be enforced. Upon thirty days' written notice to the victim's last
30 known address, the court may order the judgment imposing a duty to pay restitution or

1 reparation be docketed in the same manner as a civil judgment under section
2 29-26-22.1.

3 6. When the restitution ordered by the court under subsection 1 is the result of a finding
4 that the defendant issued a check or draft without sufficient funds or without an
5 account, the court shall impose as costs the greater of the sum of ten dollars or an
6 amount equal to twenty-five percent of the amount of restitution ordered. The costs
7 imposed under this subsection, however, may not exceed one thousand dollars. The
8 state-employed clerks of district court shall remit the funds collected as costs under
9 this subsection to the state treasurer for deposit in the restitution collection assistance
10 fund. The funds deposited into the restitution collection assistance fund are
11 appropriated to the judicial branch on a continuing basis for the purpose of defraying
12 expenses incident to the collection of restitution, including operating expenses and the
13 compensation of additional necessary personnel. The state's attorneys and
14 county-employed clerks of district court shall remit the funds collected as costs under
15 this subsection to the county treasurer to be deposited in the county general fund.

16 7. The court may order the defendant to perform reasonable assigned work as a
17 condition of probation, which assigned work need not be related to the offense
18 charged, but must not be solely for the benefit of a private individual other than the
19 victim.

20 8. ~~Under section 12-1-32-07, the court may order that the defendant reimburse indigent~~
21 ~~defense costs and expenses as a condition of probation.~~

22 a. ~~Unless it finds that there is no likelihood that the defendant is or will be able to~~
23 ~~pay attorney's fees and expenses, the court, in its judgment of conviction, and in~~
24 ~~any order or amended judgment following a revocation or other postjudgment~~
25 ~~proceeding, shall notify the defendant, the defendant's probation officer, and the~~
26 ~~prosecuting attorney of the presumed amount of costs and expenses to be~~
27 ~~reimbursed, as determined by the commission on legal counsel for indigents, and~~
28 ~~of the right to a hearing on the reimbursement amount. The reimbursement~~
29 ~~amount must include an application fee imposed under section 29-07-01.1 if the~~
30 ~~fee has not been paid before disposition of the case and the court has not waived~~
31 ~~payment of the fee.~~

- 1 b. ~~If the defendant or prosecutor requests a hearing within thirty days of receiving~~
2 ~~notice under this subdivision, the court shall schedule a hearing at which the~~
3 ~~actual amount of attorney's fees and expenses must be shown. In determining~~
4 ~~the amount and method of reimbursement, the court shall consider the financial~~
5 ~~resources of the defendant and the nature of the burden that reimbursement of~~
6 ~~costs and expenses will impose.~~
- 7 c. ~~A defendant who is required to reimburse indigent defense costs and expenses~~
8 ~~as a condition of probation and who is not willfully in default in that~~
9 ~~reimbursement may at any time petition the court that imposed the condition to~~
10 ~~waive reimbursement of all or any portion of the costs and expenses. If the court~~
11 ~~is satisfied that reimbursement of the amount due will impose undue hardship on~~
12 ~~the defendant or the defendant's immediate family, the court may waive~~
13 ~~reimbursement of all or any portion of the amount due or modify the method of~~
14 ~~payment.~~
- 15 d. ~~If at any time the court finds that the defendant is able to reimburse costs and~~
16 ~~expenses and has willfully failed to do so, the court may continue, modify, or~~
17 ~~enlarge the conditions of probation or revoke probation as provided in~~
18 ~~subsection 6 or 7, as applicable, of section 12.1-32-07.~~
- 19 9. ~~If the court finds that the defendant is unable to pay a fine, supervision fee,~~
20 ~~reimbursement for indigent defense costs and expenses, or restitution or reparations,~~
21 ~~the court may order the defendant to perform reasonable assigned work in lieu of all or~~
22 ~~part of a fine, a supervision fee, reimbursement for indigent defense costs and~~
23 ~~expenses, or restitution or reparations. The defendant may not perform reasonable~~
24 ~~assigned work in lieu of restitution or reparations unless the person entitled to~~
25 ~~restitution or reparations has consented in writing or on the record.~~

26 **SECTION 5. AMENDMENT.** Section 29-07-01.1 of the North Dakota Century Code is
27 amended and reenacted as follows:

1 **29-07-01.1. Payment of expenses for defense of indigents - Reimbursement of**
2 ~~indigent defense costs and expenses~~ **Indigent defense administration fund - Continuing**
3 **appropriation.**

- 4 1. Lawyers provided to represent indigent persons must be compensated at a
5 reasonable rate to be determined by the commission on legal counsel for indigents.
6 Expenses necessary for the adequate defense of an indigent person prosecuted in
7 district court, other than for a violation of a home rule county's ordinance, when
8 approved by the commission, must be paid by the state. Expenses necessary for the
9 adequate defense of an indigent person prosecuted for violation of a home rule
10 county's ordinance must be paid by the home rule county. Expenses necessary for the
11 adequate defense of an indigent person prosecuted in municipal court, when approved
12 by the judge, must be paid by the city in which the alleged offense took place. The city
13 shall also pay the expenses in any matter transferred to district court pursuant to
14 section 40-18-06.2 or 40-18-15.1, in any appeal taken to district court from a judgment
15 of conviction in municipal court pursuant to section 40-18-19, and in an appeal or
16 postconviction matter seeking relief from a conviction resulting from violation of a
17 municipal ordinance. A defendant requesting representation by counsel at public
18 expense, or for whom counsel provided at public expense without a request is
19 considered appropriate by the court, shall submit an application for indigent defense
20 services. ~~For an application for indigent defense services in the district court, a~~
21 ~~nonrefundable application fee of thirty five dollars must be paid at the time the~~
22 ~~application is submitted. The district court may extend the time for payment of the fee~~
23 ~~or may waive or reduce the fee if the court determines the defendant is financially~~
24 ~~unable to pay all or part of the fee. If the application fee is not paid before disposition~~
25 ~~of the case, the fee amount must be added to the amount to be reimbursed under this~~
26 ~~section. Application fees collected under this subsection must be forwarded for deposit~~
27 ~~in the indigent defense administration fund established under subsection 4.~~
28 2. ~~A defendant for whom counsel is provided at public expense, subject to this~~
29 ~~subsection, shall reimburse the state, home rule county, or city such sums as the~~
30 ~~state, home rule county, or city expends on the defendant's behalf.~~

- 1 a. ~~At the time counsel is provided for a defendant, the court shall advise the~~
2 ~~defendant of the defendant's potential obligation to reimburse the appropriate~~
3 ~~governmental entity the amounts expended on behalf of the defendant.~~
- 4 b. ~~Unless it finds that there is no likelihood that the defendant is or will be able to~~
5 ~~pay attorney's fees and expenses, the court, in its judgment of conviction, and in~~
6 ~~any order or amended judgment entered following a revocation or other~~
7 ~~postjudgment proceeding, shall order the defendant to reimburse the presumed~~
8 ~~amount of indigent defense costs and expenses, as determined by the~~
9 ~~commission, and shall notify the defendant of the right to a hearing on the~~
10 ~~reimbursement amount. If the defendant or prosecutor requests a hearing within~~
11 ~~thirty days of receiving notice under this subdivision, the court shall schedule a~~
12 ~~hearing at which the actual amount of attorney's fees and expenses must be~~
13 ~~shown. In determining the amount of reimbursement and method of payment, the~~
14 ~~court shall consider the financial resources of the defendant and the nature of the~~
15 ~~burden that reimbursement of costs and expenses will impose.~~
- 16 e. ~~A defendant who is required to reimburse indigent defense costs and expenses~~
17 ~~and who is not willfully in default in that reimbursement may at any time petition~~
18 ~~the court to waive reimbursement of all or any portion of the attorney's fees and~~
19 ~~expenses. If the court is satisfied that reimbursement of the amount due will~~
20 ~~impose undue hardship on the defendant or the defendant's immediate family,~~
21 ~~the court may waive reimbursement of all or any portion of the amount due or~~
22 ~~modify the method of payment.~~
- 23 3. ~~The attorney general, the state's attorney of the home rule county, or the prosecuting~~
24 ~~attorney of the city in which the alleged offense took place, if reimbursement has not~~
25 ~~been received, shall seek civil recovery of any amounts expended on the defendant's~~
26 ~~behalf anytime the attorney general, state's attorney, or city attorney determines the~~
27 ~~person for whom counsel was appointed may have funds to repay the state, home rule~~
28 ~~county, or city within six years of the date such amount was paid on that person's~~
29 ~~behalf. A person against whom civil recovery is sought under this subsection is entitled~~
30 ~~to all exemptions accorded to other judgment debtors. The attorney general, state's~~
31 ~~attorney, or prosecuting attorney may contract with a private sector collection agency~~

1 for assistance in seeking recovery of such funds. Before referring the matter to a
2 collection agency, the state's attorney shall notify the person who is the subject of the
3 collection action.

4 4. The indigent defense administration fund is a special fund in the state treasury. The
5 state treasurer shall deposit in the fund all application fees collected under
6 subsection 1. All moneys in the indigent defense administration fund are appropriated
7 on a continuing basis to the commission on legal counsel for indigents to be used in
8 the administration of the indigent defense system.

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

11 **29-26-22. Judgment for fines – Court administration fee – Community service**
12 **supervision fee – Special funds – Docketing and enforcement****Court fines and costs**
13 **waived for completing drug court program. (Retroactive application - [See note](#))**

14 1. In all criminal cases except infractions, upon a plea or finding of guilt, the court shall
15 impose a court administration fee in lieu of the assessment of court costs. The court
16 administration fee must include a fee of one hundred twenty-five dollars for a class B
17 misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for
18 a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars
19 for a class A or AA felony.

20 2. In addition, in all criminal cases except infractions, the court administration fee must
21 include one hundred dollars. Of the additional one hundred dollar court administration
22 fee, the first seven hundred fifty thousand dollars collected per biennium must be
23 deposited in the indigent defense administration fund, which must be used for indigent
24 defense services in this state, and the next four hundred sixty thousand dollars
25 collected per biennium must be deposited in the court facilities improvement and
26 maintenance fund. After the minimum thresholds have been collected, one-half of the
27 additional court administration fee must be deposited in each fund.

28 3. In addition to any court administration fees that may be imposed under subsections 1
29 and 2, the court shall impose upon each defendant who receives a sentence that
30 includes community service a community service supervision fee of twenty-five dollars.
31 The community service supervision fee must be deposited in the community service

1 supervision fund. The fees deposited in this fund must be used to provide community-
2 service supervision grants subject to legislative appropriations.

3 4. A court may waive the administration fee or community service supervision fee upon a
4 showing of indigency as provided in section 25-03.1-13. District court administration-
5 fees, exclusive of amounts deposited in the indigent defense administration fund and
6 the court facilities and improvement fund, and forfeitures must be deposited in the
7 state general fund. A judgment that the defendant pay a fine or fees, or both, may be
8 docketed and if docketed constitutes a lien upon the real estate of the defendant in
9 like manner as a judgment for money rendered in a civil action. The court may allow
10 the defendant to pay any assessed administration fee or community service-
11 supervision fee in installments. When a defendant is assessed administration fees or a
12 community service supervision fee, the court may not impose at the same time an
13 alternative sentence to be served if the fees are not paid.

14 5. Upon successful completion of an approved adult drug court program, a court may
15 waive all unpaid fines, fees, and costs imposed in the criminal judgment sentencing the
16 defendant to the drug court program, except for restitution. For purposes of this
17 subsection, "approved drug court program" means a district court-supervised treatment
18 program approved by the supreme court.

19 **SECTION 7. AMENDMENT.** Subdivision h of subsection 5 of section 39-08-01 of the North
20 Dakota Century Code is amended and reenacted as follows:

21 h. If the penalty mandated by this section includes imprisonment or placement upon
22 conviction of a violation of this section or equivalent ordinance, and if an
23 addiction evaluation has indicated that the defendant needs treatment, the court
24 may order the defendant to undergo treatment at an appropriate licensed
25 addiction treatment program under subdivision g of subsection 1 of section
26 12.1-32-02 and the time spent by the defendant in the treatment must be credited
27 as a portion of a sentence of imprisonment or placement under this section. A
28 court may not order the department of corrections and rehabilitation to be
29 responsible for the costs of treatment in a private treatment facility.

30 **SECTION 8. AMENDMENT.** Subsection 1 of section 54-12-14 of the North Dakota Century
31 Code is amended and reenacted as follows:

- 1 1. The attorney general assets forfeiture fund consists of funds appropriated by the
2 legislative assembly and additional funds obtained from moneys, assets, and
3 proceeds seized and forfeited pursuant to section 19-03.1-36, amounts received
4 through court proceedings as restitution, amounts remaining from the forfeiture of
5 property after the payment of expenses for forfeiture and sale authorized by law, and
6 amounts received from a multijurisdictional drug task force as defined in section
7 54-12-26. The amount of deposits into the fund which do not come from legislative
8 appropriation or from a multijurisdictional drug task force and are not payable to
9 another governmental entity may not exceed two hundred thousand dollars within a
10 biennium and any moneys in excess of that amount must be deposited in the general
11 fund. The funds are appropriated, as a standing and continuing appropriation, to the
12 attorney general for the following purposes:
- 13 a. For obtaining evidence for enforcement of any state criminal law or law relating to
14 the control of drug abuse.
 - 15 b. ~~For repayment of rewards to qualified local programs approved under section~~
16 ~~12.1-32-02.2, if the information that was reported to the qualified local program~~
17 ~~substantially contributed to forfeiture of the asset, and for~~ For paying, at the
18 discretion of the attorney general, rewards for ~~other~~ information or assistance
19 leading to a forfeiture under section 19-03.1-36.
 - 20 c. For paying, at the discretion of the attorney general, any expenses necessary to
21 seize, detain, inventory, safeguard, maintain, advertise, or sell property seized,
22 detained, or forfeited pursuant to section 19-03.1-36, or of any other necessary
23 expenses incident to the seizure, detention, or forfeiture of such property.
 - 24 d. For equipping, for law enforcement functions, forfeited vessels, vehicles, and
25 aircraft retained as provided by law for official use by the state board of pharmacy
26 or a law enforcement agency.
 - 27 e. For paying, at the discretion of the attorney general, overtime compensation to
28 agents of the bureau of criminal investigation incurred as a result of
29 investigations of violations of any state criminal law or law relating to the control
30 of drug abuse.

- 1 f. For paying matching funds required to be paid as a condition for receipt of funds
2 from a federal government program awarding monetary grants or assistance for
3 the investigation, apprehension, or prosecution of persons violating the
4 provisions of chapter 19-03.1.

5 **SECTION 9. AMENDMENT.** Subsection 16 of section 54-23.3-04 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 16. To collect the costs of any presentence investigation and report incurred under
8 subsection ~~4410~~ of section 12.1-32-02, giving due consideration to the financial
9 obligations and resources of the defendant.

10 **SECTION 10. AMENDMENT.** Subsection 2 of section 62.1-05-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 2. A person who violates this section is guilty of a class C felony. Upon arrest of that
13 person, the firearm or dangerous weapon must be seized. Upon conviction of the
14 person and motion to the court in which the conviction occurred, the firearm or
15 dangerous weapon must be forfeited to the jurisdiction in which the arrest was made.
16 The firearm or dangerous weapon may be sold at public auction, retained for use, or
17 destroyed pursuant to the court's order. ~~If a qualified local program as defined under~~
18 ~~section 12.1-32-02.2 has paid a reward for information that resulted in forfeiture of the~~
19 ~~item and the item has been sold, the jurisdiction shall, after payment of expenses for~~
20 ~~forfeiture and sale, repay the qualified local program for the reward that it has paid.~~

21 **SECTION 11. REPEAL.** Sections 12.1-32-02.2, 27-01-10, 27-05.2-08, 27-05.2-09, and
22 27-05.2-10 of the North Dakota Century Code are repealed.

23 **SECTION 12. APPLICATION.** This Act applies to a court order or any criminal sentencing
24 imposed after the effective date of this Act.