

**SENATE BILL NO. 2233**

Introduced by

Senators Sickler, Cory, Larson

Representative Vetter

1 A BILL for an Act to amend and reenact section 32-12.2-04 of the North Dakota Century Code,  
2 relating to notice requirements for claims against the state.

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

4 **SECTION 1. AMENDMENT.** Section 32-12.2-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **32-12.2-04. Notice required - Payment of claims.**

- 7 1. a. A person bringing a claim against the state or a state employee for an injury shall  
8 present to the director of the office of management and budget within one  
9 hundred eighty days after the alleged injury is discovered or reasonably should  
10 have been discovered a written notice of the alleged claim stating the time, place,  
11 and circumstances of the ~~injury~~claim, the names of any state employees known  
12 to be involved, and the amount of compensation or other relief demanded.
- 13 b. If the claim is one for serious injury, notice must be presented to the director of  
14 the office of management and budget within one year after the alleged serious  
15 injury is discovered or reasonably should have been discovered. For purposes of  
16 this section, "serious injury" has the meaning as provided in section 26.1-41-01.
- 17 c. The time for giving the notice does not include the time during which a person  
18 injured is incapacitated by the injury from giving the notice. ~~If the claim is one for~~  
19 ~~death, the notice may be presented by the personal representative, surviving~~  
20 ~~spouse, or next of kin within one year after the alleged injury resulting in the~~  
21 ~~death.~~
- 22 e.d. The time for giving the notice is waived for a claim for relief that resulted from  
23 sexual assault, sexual abuse, gross sexual imposition, or any other claim based  
24 on a sexual act or sexual contact as defined in chapter 12.1-20.

- 1        2. After receipt of notice of a claim, the director of the office of management and budget  
2        shall, in a timely manner, notify the head of the state entity involved, the attorney  
3        general, and any insurer or self-insurance pool providing coverage for that state entity.  
4        For claims over ten thousand dollars, the director, in consultation with the head of the  
5        state entity involved and the attorney general, may settle claims covered by the state  
6        risk management fund if the claim is made in writing and settlement is approved by the  
7        attorney general. The director of the office of management and budget may  
8        independently settle any claim covered by the state risk management fund if the claim  
9        is made in writing and the settlement is for not more than ten thousand dollars.
- 10      3. A claim shall be paid out of the risk management fund unless that claim is covered by  
11      insurance or participation in a government self-insurance pool. All necessary loss  
12      adjustment expenses must be included as a component of the claim and be paid out  
13      of the fund. Loss adjustment expenses include investigation costs and attorney's fees  
14      associated with a claim.
- 15      4. The acceptance by the claimant of a settlement is final and conclusive on the claimant  
16      and constitutes a complete release of any claim against the state and the state  
17      employee whose act or omission gave rise to the claim.
- 18      5. A person bringing a legal action against the state or a state employee for a claim shall  
19      deliver a copy of the summons, complaint, or other legal pleading in which the claim is  
20      first asserted in the action to the director of the office of management and budget at  
21      the time the summons, complaint, or other legal pleading is served in the action. This  
22      provision is in addition to any applicable rule of civil procedure.