

HB 1310

What does this bill do? This bill eliminates a wide variety of fines and fees associated with criminal justice in North Dakota.

Why is eliminating fines and fees in the public interest?

A wide body of research shows that criminal justice fines and fees are a significant barrier to reentry, and a hardship not just for people with convictions, but their families as well. The U.S. Justice Department has noted that justice-involved families have had to choose between food and clothing for children and paying court fees.¹ Financial pressure and lack of access to transportation and shelter can also increase recidivism and lead to further incarceration.

Further, in North Dakota these fees are often never recouped, but exist in perpetuity. In 2020, the amount of debt owed for criminal and traffic cases for fees ordered as far back as 1990 was \$28.8M.²

In recent years, many states including Texas, Delaware, Vermont, Washington, Minnesota and New Mexico have eliminated all or some fees associated with adult criminal justice. HB 1310 is well within the national trend of investing in successful reentry and reduced recidivism.

HB 1310 contains the following provisions:

Section 1. Eliminates reimbursement for prosecution costs, and the fees associated with a presentence investigation report from the sentencing statute.

What this does: Currently, people convicted of crimes can be required to reimburse the state for the costs of their prosecution. Current law also requires the payment of a \$50 presentence report fee, and potentially other fees associated with presentence investigation. SB 1310 eliminates these requirements.

Section 2. Eliminates the \$55/month community supervision fee.

What this does: Currently, people sentenced to community supervision are responsible for the cost of that supervision. If someone is in arrears by the time supervision is completed, they can have a civil judgement levied against them for the unpaid balance. **This proposal is also in HB 1417, the Reentry Study Work Group Recommendation Bill.**

Section 3: Eliminates reimbursement for public defender services as a condition of community supervision.

What this does: Currently, a court may require a convicted person to pay back the costs of their public defender. Even if paid, these proceeds do not go to the indigent defense

¹ US Department of Justice Office of Civil Rights Dear Colleague letter to Courts. April 2023. [Dear Colleague Letter to Courts Regarding Fines and Fees for Youth and Adults.](#)

² ⁷ https://finesandfeesjusticecenter.org/content/uploads/2021/04/Tip-of-the-Iceberg_Criminal_Justice_Debt_BH1.pdf, page 18.

counsel, but rather to the general fund. This bill would eliminate a fee that acts as a barrier to successful reentry and does not fund indigent defense services in North Dakota. **The indigent defense counsel supports this measure, and it is also in HB 1417, the Reentry Study Work Group Recommendation Bill.**

Section 4: Eliminates the ability to order reimbursement for defense costs during a hearing.

What this does: Consistent with section 3, this section removes a court's ability to order the reimbursement of defense costs during a restitution or reparation proceeding. **This proposal is also in HB 1417, the Reentry Study Work Group Recommendation Bill.**

Section 5: eliminates the \$35 application fee and reimbursement from the Century Code.

What this does: Currently, a defendant is charged a \$35 application fee in order to be evaluated for indigent defense services, and may be required to reimburse a jurisdiction (state, county or city) for the services provided, after a hearing. Once this cost is assessed, a civil judgement can be rendered against a defendant who does not pay. Since anyone who qualifies for indigent defense services is by definition low income, and these fees amount to a hardship with no public safety benefit, HB 1310 eliminates the \$35 application fee and reimbursement from the Century Code.

Section 6 Eliminates the general assessment fines and fees associated with a criminal conviction, including:

- The \$125-\$900 fine depending on the severity of the offense.
- The \$100 court administration fee
- The \$25 community supervision fee

What this does: Currently, a fine may be imposed in a criminal case in addition to any sentence. North Dakota has some of the highest maximum such fines in the country.³ These fines are in addition to community service and administrative fees – all of which can be docketed as a civil judgement against the defendant. Research shows that criminal justice fees such as these can be a significant barrier to reentry. This bill would eliminate these harmful and unnecessary fees.

Section 7; [makes technical non-substantive changes to existing law to conform to the provisions of HB 1310]

Section 8: Removes reward refunds from the asset forfeiture fund.

What it does: Currently, the attorney general maintains a fund made up of monies obtained through asset forfeiture. The fund can be used to reimburse local agencies for rewards made in exchange for information that leads to seized property. This provision would eliminate those reimbursements.

Section 9: [makes technical non-substantive changes to existing law to conform to the provisions of HB 1310]

³ "50 State Fees Survey," Fines and Fees Justice Center. <https://endjusticefees.org/fee-surveys/>.

Section 10: Removes jurisdictions’ obligation to pay refunds for rewards offered by local programs for information that led to forfeiture and sale of an item.

What it does: Currently, a firearm or dangerous weapon seized in the course of a criminal case may be auctioned after conviction. If a qualified program offered a reward leading to forfeiture of the item, proceeds from the sale of a firearm or dangerous weapon may be used to reimburse the program for the reward. This provision eliminates that reimbursement.

Section 11: Repeals the following:

- Requirement that a defendant repay the cost of a reward offered by a “crime stoppers” program.
- The ability to assess up to \$25 from a convicted defendant to fund victim and witness programs
- The court improvement maintenance fund, its advisory committee, and the associated grant application process.

What it does: Currently, a defendant may be required to repay a qualified organization who offered a reward associated with the defendant’s capture. A defendant may also be required to pay up to \$25 to fund victim and witness programs. This bill eliminates these criminal justice fees

Table of SB 1310 – Introduced Version

Section	Amended Statute	Original bill filed
1	12.1-32-02. Sentencing alternatives	<ul style="list-style-type: none"> • Eliminates payment for reasonable prosecution costs as a sentencing alternative. • Non-substantive language changes (e.g. changes “prior to” to “before”) <p>Eliminates the \$50 presentence report fee, and any other fees associated with a presentence investigation.</p>
2	12.1-32-07(2). Supervision of probationer	<ul style="list-style-type: none"> • Eliminates the \$55/per month supervision fee • NOTE: This proposal is also in HB 1417, the Reentry Study Work Group Recommendation Bill.
3	12.1-32-07(4). Supervision of probationer	<ul style="list-style-type: none"> • Eliminates the court’s ability to require reimbursement requirement for indigent defense services as a supervision condition. • NOTE: This proposal is also in HB 1417, the Reentry Study Work Group Recommendation Bill.
4	12.1-32-08 - Hearing prior to ordering restitution, reparation, or reimbursement of indigent defense	<ul style="list-style-type: none"> • Changes title to “Hearing before ordering restitution or reparation”

	costs and expenses - Conditions - Collection of restitution for insufficient funds checks - Continuing appropriation	<ul style="list-style-type: none"> Eliminates the ability of the court to order reimbursement for defense costs during a restitution or reparation hearing. Removes references to supervision fees and indigent defense reimbursement. NOTE: This proposal is also in HB 1417, the Reentry Study Work Group Recommendation Bill.
5	29-07-01.1. Payment of expenses for defense of indigents - Reimbursement of indigent defense costs and expenses - Indigent defense administration fund - Continuing appropriation	<ul style="list-style-type: none"> Changes the title to "Payment of expenses for defense of indigents -Indigent defense administration fund - Continuing appropriation." Eliminates the \$35 indigent defense application fee. Eliminates the requirement that a defendant reimburse the relevant jurisdiction for public defense, and the ability of a jurisdiction to seek recovery for indigent defense fees from a defendant.
6	29-26-22. Judgment for fines - Court administration fee - Community service supervision fee - Special funds - Docketing and enforcement.	<ul style="list-style-type: none"> Changes title to "Court fines and costs waived for completing drug court program." Eliminates all general assessment fees after a conviction (\$125-900 depending on severity of offense). Eliminates the \$100 court administration fee. Eliminates the \$25 community supervision fee. Removes any references to fees in language allowing the court to waive legal financial obligations upon completion of a drug court program.
7	39-08-01(5)(h) Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty	<ul style="list-style-type: none"> [Non-substantive technical and conforming changes]
8	54-12-14 (1) Assets forfeiture fund - Created - Purpose - Continuing appropriation.	<ul style="list-style-type: none"> Removes refunds from the asset forfeiture fund for repayments to local programs whose reporting substantially assisted asset forfeiture.
9	54-23.3-04 Director - Powers and duties	<ul style="list-style-type: none"> [Technical and conforming changes]
10	62.1-05-01 Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture.	<ul style="list-style-type: none"> Removes jurisdictions' obligation to pay refunds for rewards offered by local programs for information that led to forfeiture and sale of an item.
11	REPEALS: 12.1-32-02.2 Repayment of rewards paid by crimestoppers programs - Duties of attorney general - Qualified local programs - Disbursement of moneys collected;	<ul style="list-style-type: none"> Repeals the ability to order a defendant to repay a reward offered by a qualified local "crime stoppers" program Repeals the ability to assess fees of up to \$25 from convicted defendants to fund victim and witness programs.

	<p>27-01-10 Fee assessments for funding crime victim and witness programs; 27-05.2-08 Court facilities improvement and maintenance fund - Administration - Continuing appropriation; 27-05.2-09 27-05.2-09. Court facilities improvement advisory committee - Members; and 27-05.2-10. Application for grants from court facilities improvement and maintenance fund.</p>	<ul style="list-style-type: none"> • Repeals the court improvement maintenance fund, its advisory committee, and the associated grant application process.
12	Application clause	<ul style="list-style-type: none"> • Clarifies that this bill applies to any court sentencing after the effective date.

