

PROPOSED AMENDMENTS TO

Legislative Assembly
of North Dakota

BILL NO. 2057

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact subsection 6 of section 12.1-32-08 and sections
2 27-01-10, 27-03-05, 27-05.2-03, and 29-26-22 of the North Dakota Century Code, relating to
3 court fees.

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

5 **SECTION 1. AMENDMENT.** Subsection 6 of section 12.1-32-08 of the North Dakota
6 Century Code is amended and reenacted as follows:

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

20 **SECTION 2. AMENDMENT.** Section 27-01-10 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **27-01-10. Fee assessments for funding crime victim and witness programs.**

23 1. The governing body of a county shall, by resolution, authorize the district judges
24 serving that county to assess a fee under subsection 3 of not more than ~~twenty-five~~fifty

1 dollars as part of a sentence imposed on a defendant who pleads guilty to or is
2 convicted of a criminal offense or of violating a municipal ordinance for which the
3 maximum penalty that may be imposed by law for the offense or violation includes
4 imprisonment.

5 2. The governing body of a city shall, by ordinance, authorize a municipal judge to
6 assess a fee under subsection 3 of not more than ~~twenty-five~~fifty dollars as part of a
7 sentence imposed on a defendant who pleads guilty to or is convicted of violating a
8 municipal ordinance for which the maximum penalty that may be imposed under the
9 ordinance for the violation includes imprisonment.

10 3. The governing body of the county or city shall determine the amount of the fee to be
11 assessed in all cases or it may authorize the district or municipal judge to determine
12 the amount of the fee to be assessed in each case. The fee assessed under this
13 section is in addition to any fine, penalty, costs, or administrative fee prescribed by
14 law. The district or municipal judge shall assess the fee when sentence is imposed or
15 when sentence is suspended or imposition of sentence is deferred, unless the
16 defendant is indigent and unable to pay the fee. All fees paid to a district or municipal
17 court under this section must be deposited monthly in the county or city treasury for
18 allocation by the governing body of the county or city to one or more of the following
19 programs as determined by the governing body or by agreement of the attorney
20 general, the North Dakota league of cities, and the North Dakota association of
21 counties:

- 22 a. A private, nonprofit domestic violence or sexual assault program.
23 b. A victim and witness advocacy program of which the primary function is to
24 provide direct services to victims of and witnesses to crime.
25 c. The statewide automated victim information and notification system, as provided
26 for under chapter 12.1-34.

27 **SECTION 3. AMENDMENT.** Section 27-03-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **27-03-05. Fees to be charged and collected by clerk of supreme court.**

30 The clerk of the supreme court shall charge and collect in advance a fee of ~~one hundred~~
31 ~~twenty-five~~two hundred fifty dollars upon the filing in the supreme court of the record in any
32 cause upon appeal or upon the filing in the court of a petition in any cause seeking the exercise

1 of the original court's jurisdiction. In addition to the fee required by this section, the clerk of the
2 supreme court shall charge and collect any electronic filing processing fee established by court
3 rule for any matter filed in an electronic format.

4 **SECTION 4. AMENDMENT.** Section 27-05.2-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **27-05.2-03. Fees to be charged by the clerk of the district court.**

7 1. A clerk of the district court shall charge and collect the following fees in civil cases:

8 a. For filing a case for decision ~~that is not a small claims action~~ other than under
9 subdivision b or e, ~~eightyone hundred sixty~~ dollars.

10 (1) ~~Fifteen~~Thirty dollars of this fee must be paid by the clerk of court to the state
11 treasurer for deposit in the civil legal services fund. Any fees collected under
12 this paragraph which exceed ~~seven hundred fifty thousand~~nine hundred
13 thousand dollars in any biennium must be paid by the clerk of court to the
14 state treasurer for deposit in the state general fund.

15 (2) ~~For the filing of a petition for dissolution of marriage, annulment, or~~
16 ~~separation from bed and board, fiftyone hundred~~ dollars of this fee must be
17 ~~paid by the clerk of court to the state treasurer for deposit in the displaced~~
18 ~~homemaker account created by section 14-06.1-14 and fifteen~~thirty dollars
19 ~~of this fee must be paid by the clerk of court to the state treasurer for~~
20 ~~deposit in the state general fund.~~

21 (3) ~~For all other filings, sixty-five~~ one hundred thirty One hundred thirty dollars of
22 this fee must be paid by the clerk of court to the state treasurer for deposit in
23 the state general fund.

24 b. For filing a petition for dissolution of marriage, annulment, or separation, one
25 hundred sixty dollars.

26 (1) Thirty dollars of this fee must be paid by the clerk of court to the state
27 treasurer for deposit in the civil legal services fund. Any fees collected
28 under this paragraph which exceed nine hundred thousand dollars in any
29 biennium must be paid by the clerk of court to the state treasurer for
30 deposit in the state general fund.

1 (2) One hundred dollars of this fee must be paid by the clerk of court to the
2 state treasurer for deposit in the displaced homemaker account created
3 by section 14-06.1-14.

4 (3) Thirty dollars of this fee must be paid by the clerk of court to the state
5 treasurer for deposit in the state general fund.

6 c. For filing an answer to a case ~~that is not a small claims action~~ other than under
7 subdivision d or e, fiftyone hundred dollars. The clerk shall deposit this fee with
8 the state treasurer for deposit in the general fund in the state treasury.

9 d. For filing a motion to modify an order for spousal support, property division, child
10 support, parental rights and responsibilities, residential responsibility, parenting
11 time, one hundred sixty dollars. For filing an answer to a motion to modify an
12 order for spousal support, property division, child support, parental rights and
13 responsibilities, residential responsibility, or parenting time, one hundred dollars.
14 The clerk shall deposit this fee with the state treasurer for deposit in the general
15 fund of the state treasury.

16 e.e. For filing a small claims action in district court, ~~tentwenty~~ twenty dollars.

17 d.f. For filing any matter authorized to be filed in the office of the clerk of court other
18 than under subdivision a, b, or c, ~~tentwenty~~ twenty dollars.

19 e.g. For preparing, certifying, issuing, or transmitting any document, ~~tentwenty~~ twenty dollars,
20 or a lesser fee as may be set by the state court administrator.

21 f. ~~For filing a motion or an answer to a motion to modify an order for~~
22 ~~alimony spousal support, property division, child support, parental rights and~~
23 ~~responsibilities, residential responsibility, or child custody parenting time, thirtyone~~
24 ~~hundred sixty dollars. For filing an answer to a motion to modify an order for~~
25 ~~spousal support, property division, child support, parental rights and~~
26 ~~responsibilities, residential responsibility, or parenting time, one hundred dollars.~~
27 ~~The clerk shall deposit this fee with the state treasurer for deposit in the general~~
28 ~~fund of the state treasury.~~

29 2. Section 27-01-07 applies to fees charged under this section. The clerk of court may
30 not charge or collect any fee, prescribed by this or any other section, from the state or
31 an agency thereof or from a political subdivision or agency thereof.

1 **SECTION 5. AMENDMENT.** Section 29-26-22 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **29-26-22. Judgment for fines - Court administration fee - Community service**
4 **supervision fee - Special funds - Docketing and enforcement. (Retroactive application -**
5 **See note)**

- 6 1. In all criminal cases except infractions, upon a plea or finding of guilt, the court shall
7 impose a court administration fee in lieu of the assessment of court costs. The court
8 administration fee must include a fee of ~~one hundred twenty five~~ two hundred fifty
9 dollars for a class B misdemeanor, ~~two hundred~~ four hundred dollars for a class A
10 misdemeanor, ~~four hundred~~ eight hundred dollars for a class C felony, ~~six hundred~~
11 ~~fifty~~ one thousand three hundred dollars for a class B felony, and ~~nine hundred~~ one
12 thousand eight hundred dollars for a class A or AA felony.
- 13 2. In addition, in all criminal cases except infractions, ~~the court administration fee must~~
14 ~~include~~ the court shall impose an indigent defense and court facilities fee of one
15 ~~hundred~~ two hundred dollars. Of the additional ~~one hundred~~ two hundred dollar court
16 administration fee, the first seven hundred fifty thousand dollars collected per
17 biennium must be deposited in the indigent defense administration fund, which must
18 be used for indigent defense services in this state, and the next four hundred sixty
19 thousand dollars collected per biennium must be deposited in the court facilities
20 improvement and maintenance fund. After the minimum thresholds have been
21 collected, one-half of the additional court administration fee must be deposited in each
22 fund.
- 23 3. In addition to any ~~court administration~~ fees that may be imposed under subsections 1
24 and 2, the court shall impose upon each defendant who receives a sentence that
25 includes community service a community service supervision fee of ~~twenty-five~~ fifty
26 dollars. The community service supervision fee must be deposited in the community
27 service supervision fund. The fees deposited in this fund must be used to provide
28 community service supervision grants subject to legislative appropriations.
- 29 4. A court may waive the court administration fee, indigent defense and court facilities
30 fee, or community service supervision fee upon a showing of indigency as provided in
31 section 25-03.1-13. District court administration fees, exclusive of amounts deposited
32 in the indigent defense administration fund and the court facilities and improvement

Legislative Assembly

- 1 fund, and forfeitures must be deposited in the state general fund. A judgment that the
2 defendant pay a fine or fees, or both, may be docketed and if docketed constitutes a
3 lien upon the real estate of the defendant in like manner as a judgment for money
4 rendered in a civil action. The court may allow the defendant to pay any assessed
5 administration fee or community service supervision fee in installments. When a
6 defendant is assessed administration fees or a community service supervision fee, the
7 court may not impose at the same time an alternative sentence to be served if the fees
8 are not paid.
- 9 5. Upon successful completion of an approved adult drug court program, a court may
10 waive all unpaid fines, fees, and costs imposed in the criminal judgment sentencing
11 the defendant to the drug court program, except for restitution. For purposes of this
12 subsection, "approved drug court program" means a district court-supervised
13 treatment program approved by the supreme court.
14