

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 379

HOUSE BILL NO. 1066
(Kretschmar)

TEMPORARY COURT OF APPEALS

AN ACT to amend and reenact section 15 of chapter 374 of the 1987 Session Laws of North Dakota, relating to the expiration date for legislation creating a temporary court of appeals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15 of chapter 374 of the 1987 Session Laws is hereby amended and reenacted to read as follows:

SECTION 15. EXPIRATION DATE. This Act is effective through January 1, ~~1990~~ 1994, and after that date is ineffective.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 380

HOUSE BILL NO. 1061
(Legislative Council)
(Interim Law Enforcement Committee)

COUNTY AND CITY CRIME VICTIM PROGRAMS

AN ACT to provide counties and cities the option of funding crime victim and witness programs through fees assessed as part of criminal sentences.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Fee assessments for funding crime victim and witness programs.

1. The governing body of a county may, by resolution, authorize a county judge to assess a fee under subsection 3 of not more than twenty-five dollars as part of a sentence imposed on a defendant who pleads guilty to or is convicted of a criminal offense or of violating a municipal ordinance for which the maximum penalty that may be imposed by law for the offense or violation includes imprisonment.
2. The governing body of a city may, by ordinance, authorize a municipal judge to assess a fee under subsection 3 of not more than twenty-five dollars as part of a sentence imposed on a defendant who pleads guilty to or is convicted of violating a municipal ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment.
3. The governing body of the county or city may determine the amount of the fee to be assessed in all cases or it may authorize the county or municipal judge to determine the amount of the fee to be assessed in each case. The fee assessed under this section is in addition to any fine, penalty, costs, or administrative fee prescribed by law. The county or municipal judge may assess the fee when sentence is imposed or when sentence is suspended or imposition of sentence is deferred, unless the defendant is indigent and unable to pay the fee. All fees paid to a county or municipal court under this section must be deposited monthly in the county or city treasury for allocation by the governing body of the county or city to one or more of the following programs as determined by the governing body:
 - a. A private, nonprofit domestic violence or sexual assault program.
 - b. A victim and witness advocacy program of which the primary function is to provide direct services to victims of and witnesses to crime.

Approved March 31, 1989

Filed March 31, 1989

CHAPTER 381

HOUSE BILL NO. 1270
(Enget, Murphy)

STATE AND TRIBAL COURT JUDGMENTS

AN ACT to provide for the reciprocal recognition of certain state and tribal court judgments, decrees, and orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Reciprocal recognition of certain state and tribal court judgments, decrees, and orders - Conditions. The district courts and county courts shall recognize and cause to be enforced any judgment, decree, or order of the tribal court of the Three Affiliated Tribes of the Fort Berthold Reservation in any case involving the dissolution of marriage, the distribution of property upon divorce, child custody, adoption, an adult abuse protection order, or an adjudication of the delinquency, dependency, or neglect of Indian children if the tribal court had jurisdiction over the subject matter of the judgment, decree, or order. The tribal court judgment, decree, or order must be rendered by a judge who is a graduate of an accredited law school and holds a current valid license to practice law in at least one state. A state court may inquire as to the facts of the case or tribal law only to the extent necessary to determine whether the tribal court had jurisdiction over the subject matter of the judgment, decree, or order and personal jurisdiction over the parties to the action. Recognition and enforcement of tribal court judgments, decrees, and orders under this section is conditioned upon recognition and enforcement of state court judgments, decrees, and orders by the tribal court of the Three Affiliated Tribes and tribal law enforcement agencies under the same limitations provided by this section for recognition and enforcement of tribal court judgments, decrees, and orders by state courts.

Approved March 15, 1989
Filed March 15, 1989

CHAPTER 382

SENATE BILL NO. 2468
(Senator Satrom)
(Representatives Wentz, Kretschmar)

SUPREME COURT AND DISTRICT COURT PERSONNEL

AN ACT to amend and reenact sections 27-02-05.1, 27-03-01, subsection 1 of section 27-05-30, sections 27-06-01 and 27-20-05 of the North Dakota Century Code, relating to the status of supreme court and district court personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-02-05.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-05.1. Administration by supreme court. The supreme court shall have and exercise administrative supervision over all courts of this state and the judges, justices, or magistrates of such courts under such rules and procedures as it shall from time to time prescribe. The supreme court shall provide to the extent it deems necessary or desirable, rules for:

1. Administrative supervision by the supreme court of all courts.
2. Administrative practice and procedure in all courts, including:
 - a. The required filing by all courts of all reports deemed necessary by the supreme court; and
 - b. The establishment of uniform standards and procedures for the effective management of court records.

All judges, clerks of court, and other officers or employees of the courts and of offices related to and serving the courts shall comply with all administrative practice and procedure rules promulgated by the supreme court.

3. Personnel policies, procedures, qualifications, duties, and compensation for court personnel.
4. Uniform financial accounting procedures to be followed by all judicial officers and employees designated to receive and transmit fees, fines, costs, and other moneys. The court shall not establish any accounting procedures which conflict with those established by the state auditor for county agencies.
- ← 5. The transfer of any matter to any proper court when the jurisdiction of any court has been improvidently invoked.

- 5- 6. Withdrawal of any case or other matter pending before any judge and to reassign the proceeding or case to another judge, when, in the opinion of the supreme court, the withdrawal and reassignment should be made in order to expedite and promote justice.

SECTION 2. AMENDMENT. Section 27-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-03-01. Appointment of clerk of supreme court. ~~There shall be a clerk of the supreme court who shall be appointed by the judges thereof and who shall hold his office during the pleasure of such judges. The supreme court shall appoint a clerk of the supreme court to perform duties assigned by the court. The court shall establish the clerk's salary within the amount appropriated for salaries by the legislative assembly.~~

SECTION 3. AMENDMENT. Subsection 1 of section 27-05-30 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. There may be appointed in each judicial district, by the judges of district court having jurisdiction therein, one or more referees to serve ~~at the pleasure of the appointing judges,~~ on a full-time or part-time basis. A referee is entitled to receive a salary within the limits of legislative appropriation.

SECTION 4. AMENDMENT. Section 27-06-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-01. District court reporter - Appointment, oath, ~~term,~~ substitutes, qualifications. Each district judge shall appoint a qualified shorthand reporter to the office of court reporter. The order of appointment shall be filed in the office of the clerk and entered upon the records of the court in each county of the district. The person so appointed shall take and subscribe the oath required of other civil officers and shall file the same in the office of the secretary of state. The reporter shall hold office and discharge the duties thereof in person ~~until the order of appointment is revoked, or until another person is appointed to the office.~~ If the reporter shall be incapacitated from acting, the judge may appoint some other qualified shorthand reporter to act, whose notes, transcripts, and certificates shall have the same force and effect as though made by the official reporter, but the certificates made by the person shall be under oath. A qualified shorthand reporter shall be a person who is the holder of a registered professional reporter certificate issued by the national shorthand reporters association or an official shorthand reporter appointed on or before July 1, 1979.

SECTION 5. AMENDMENT. Section 27-20-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-05. Juvenile court personnel.

1. The supreme court may appoint one or more juvenile supervisors who shall serve at the pleasure of the court. ~~Juvenile supervisors have the powers and duties stated in section 27-20-06. If more than one juvenile supervisor is appointed, one may be designated by the court as the chief juvenile supervisor or director of court services, who shall be responsible for the administration of~~

juvenile court services under the direction of the court provide for the appointment by administrative and personnel rules of the necessary juvenile court officers, clerical personnel, and other specialized personnel within the limits of legislative appropriations to assist the court in carrying out its juvenile probation and supervisor functions.

2. Each juvenile supervisor shall receive as full compensation for his services an annual salary as may be fixed from time to time by the judge who appointed him; or by his successor. Such salary shall be within the limits of legislative appropriations and payable in equal monthly installments by the state. In addition, the juvenile supervisor shall be paid reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to other state employees.
3. A judge of the juvenile court, in his discretion, may provide for the employment of probation officers, clerical, and other specialized personnel under the direction and supervision of the judge, to assist the court and juvenile supervisors in carrying out the provisions of this chapter. Personnel so employed shall receive as full compensation for their services such amount as may be fixed and approved from time to time by the judge of the juvenile court assisted, within the limits of legislative appropriations, together with reasonable travel expenses, in the manner and subject to the limitations applicable to juvenile supervisors. Detention center facilities and personnel shall be funded by the county.
4. 3. All salaries, per diem, and other compensation payable to juvenile court personnel, all necessary books, forms, stationery, office supplies and equipment, postage, telephone, travel, and other necessary expenses incurred in carrying out the provisions of this chapter shall be borne by the state, except for suitable quarters for conducting official business and lights and fuel which shall be funded by the county and except as provided by subsection 1 of section 27-20-49.

Approved April 19, 1989
Filed April 19, 1989

CHAPTER 383

HOUSE BILL NO. 1120
(Committee on Judiciary)
(At the request of the Supreme Court)

COUNTY COURT JURY BAILIFFS

AN ACT to amend and reenact section 27-07.1-16 of the North Dakota Century Code, relating to bailiffs of the county court; and to repeal section 27-06-09 of the North Dakota Century Code, relating to compensation for bailiffs of district court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-07.1-16 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-16. ~~Bailiffs~~ Jury bailiffs of county courts - Appointment, ~~terms, powers,~~ compensation. The judge of a county court may ~~appoint~~ employ one or more competent persons as jury bailiffs of ~~for~~ the court. The jury bailiffs hold office at the pleasure of the judge, have the same powers as a peace officer, and are entitled to receive for their services an amount which equals the compensation and mileage which is provided for jurors for required attendance at sessions of the district or county court under the provisions of section 27-09.1-14 ~~must be compensated by the county at the rate set by the supreme court for district court jury bailiffs.~~

SECTION 2. REPEAL. Section 27-06-09 of the 1987 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 384

SENATE BILL NO. 2406
(Senators Stenehjem, Heinrich)
(Representatives Stenehjem, Rydell, Gates)

UNRULY CHILD AND ALCOHOL

AN ACT to amend and reenact subsection 10 of section 27-20-02 of the North Dakota Century Code, relating to the definition of an unruly child under the Uniform Juvenile Court Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 27-20-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. "Unruly child" means a child who:
 - a. Is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or who is willfully in a situation dangerous or injurious to the health, safety, or morals of himself or others;
 - c. Has committed an offense applicable only to a child;
 - d. Has committed a noncriminal traffic offense without ever having been issued an operator's license or permit if one was required; or
 - e. Has committed an offense in violation of section 39-08-18 or purchased, attempted to purchase, possessed, or consumed alcoholic beverages; and
 - f. In any of the foregoing instances is in need of treatment or rehabilitation.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 385

SENATE BILL NO. 2060
 (Legislative Council)
 (Interim Law Enforcement Committee)

ALLEGED SEX OFFENDER REMOVAL FROM HOME

AN ACT to amend and reenact section 27-20-17 of the North Dakota Century Code, relating to the removal of an alleged sexual offender from the residence of a child as a condition of release of the child from shelter care under the Uniform Juvenile Court Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-17. Release from detention or shelter care - Hearing - Conditions of release.

1. If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the juvenile supervisor, the intake officer, or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his the child's detention or shelter care is warranted or required under section 27-20-14.
2. If he the child is not so released, a petition under section 27-20-21 ~~shall~~ must be promptly made and presented to the court. A judge or referee shall hold a detention or shelter care hearing promptly and not later than ninety-six hours after the child is placed in detention or shelter care to determine whether there is probable cause to believe the child has committed the delinquent or unruly acts alleged, or the child is deprived and whether his the child's detention or shelter care is required under section 27-20-14. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention or shelter care hearing ~~shall~~ must be given to the child and, if they can be found, to his the child's parents, guardian, or other custodian. As a condition to the child's release from shelter care, the court may order a parent, guardian, custodian, or any other member of the household in which the child resides to vacate the child's residence if probable cause exists to believe that the parent, guardian, custodian, or other member of the household has committed a sexual offense with or against the child, pursuant to sections 12.1-20-03 through 12.1-20-07 or section 12.1-20-11, and the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health. Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to

remain silent with respect to any allegations of delinquency or unruly conduct.

3. If the child is not ~~so~~ released and a parent, guardian, or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files ~~his~~ an affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order ~~his~~ the child's release, unless it appears from the hearing that the child's detention or shelter care is required under section 27-20-14.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 386

SENATE BILL NO. 2295
(Senators Olson, J. Meyer)
(Representative Rydell)

UNIFORM JUVENILE COURT ACT PLACEMENTS

AN ACT to amend and reenact section 27-20-36 of the North Dakota Century Code, relating to limitations of time on orders of disposition for placement of minors in foster care under the Uniform Juvenile Court Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-36 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-36. Limitations of time on orders of disposition.

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition committing a delinquent or unruly child to the state industrial school continues in force for two years, excluding any period of time the child is on parole from the institution, or until the child is sooner discharged by the institution. The court which made the order may extend its duration for additional two-year periods subject to like discharge, if:
 - a. A hearing is held upon motion of the institution, or on the court's own motion, prior to the expiration of the order;
 - b. Reasonable notice of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or other custodian; and
 - c. The court finds that the extension is necessary for the treatment or rehabilitation of the child.
3. An order of disposition pursuant to which a child is placed in foster care continues in force for not more than eighteen months. Any other order of disposition continues in force for not more than two years.
4. Except as provided in subsection 1, the court may sooner terminate an order of disposition or extend its duration for further periods. An order of extension may be made if:
 - a. A hearing is held prior to the expiration of the order upon motion of a party or on the court's own motion;

- b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
 - c. The court finds that the extension is necessary to accomplish the purposes of the order extended; and
 - d. The extension does not exceed eighteen months from the expiration of an order limited by subsection 3 or two years from the expiration of any other limited order. However, the court may order that the child permanently remain in foster care with a specified care giver and that the duration of the order be left to the determination of the court if the court determines that:
 - (1) All reasonable efforts have been made to reunite the child with the child's family;
 - (2) The deprivation is likely to continue;
 - (3) With respect to a child under the age of ten, termination of parental rights and subsequent adoption would not be in the best interests of the child; and
 - (4) The placement of the child in permanent foster care is in the best interests of the child.
5. Except as provided in subsection 2, the court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if it appears to the court that the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination the order may be made only after reasonable notice and opportunity to be heard have been given to ~~him~~ the party.
 6. Except as provided in subsection 1, when the child attains the age of twenty years, all orders affecting ~~him~~ the child then in force terminate and ~~he~~ the child is discharged from further obligation or control.
 7. If an order of disposition is made with respect to a child under the age of ten years pursuant to which the child is removed from the care, custody, and control of ~~his~~ the child's parent, guardian, or other custodian without terminating parental rights and the parent and child relationship, the court, before extending the duration of the order, shall determine upon the extension hearing whether the child is adoptable and whether termination of those rights and that relationship is warranted under section 27-20-44 and is in the best interest of the child. In that case the notice of the extension hearing must also inform the parties affected that the court will determine whether the child is adoptable and whether termination of their parental rights and the parent and child relationship is warranted and in the best interest of the child and that a further order of disposition may be made by the court placing ~~said~~ the child with a view to adoption. If the court determines that the child is adoptable and that termination of parental rights and the parent and child relationship is warranted and is in the best interest of the child, the court shall make a further order of disposition terminating those rights and that relationship and committing the child under section 27-20-47.

CHAPTER 387

SENATE BILL NO. 2298
(Senators Stromme, Hanson, Tallackson)
(Representative Aarsvold)

CHILD EXAMINATION AND TREATMENT COSTS

AN ACT to amend and reenact subsections 1 and 2 of section 27-20-49 of the North Dakota Century Code, relating to payment by the state of the costs of transportation necessary for court-ordered medical examinations and treatment of a child.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 1 and 2 of section 27-20-49 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:
 - a. The cost of medical and other examinations and treatment, ~~including any necessary transportation~~, of a child ordered by the court.
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent.
 - c. The cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court unless the child is in the legal custody of a state agency.
2. The following expenses shall be expenses of the state:
 - a. Reasonable compensation for services and related expenses of counsel appointed by the court for a party.
 - b. Reasonable compensation for a guardian ad litem.
 - c. The expense of service of summons, notices, subpoenas, travel expense of witnesses, and other like expenses incurred in the proceedings under this chapter.
 - d. The cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court if the child is in the legal custody of a state agency in which case the cost must be borne by that state agency at the state mileage rate excluding meals and lodging.

Approved April 14, 1989
Filed April 17, 1989

* NOTE: Section 27-20-49 was also amended by section 1 of Senate Bill No. 2236, chapter 388.

CHAPTER 388

SENATE BILL NO. 2336
(Senators Waldera, D. Meyer)
(Representatives Goetz, Wald)

COURT WITNESS AND INTERPRETER COSTS

AN ACT to amend and reenact section 27-20-49, subsection 1 of section 28-33-02, sections 28-33-05, 31-01-16, and 31-01-18 of the North Dakota Century Code, relating to payment of district court case witness fees and expenses and compensation and appointment of interpreters for deaf persons in judicial and administrative proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 27-20-49 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-49. Costs and expenses for care of child.

1. The following expenses ~~shall be~~ are a charge upon the funds of the county upon certification thereof by the court:
 - a. The cost of medical and other examinations and treatment, including any necessary transportation, of a child ordered by the court.
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent.
2. The ~~following expenses~~ supreme court shall ~~be expenses of the state:~~
 - a- ~~Reasonable~~ pay reasonable compensation for services and related expenses of counsel appointed by the court for a party-
 - b- ~~Reasonable~~ and reasonable compensation for a guardian ad litem.
 - c- The attorney general shall pay the expense of service of summons, notices, subpoenas, travel expense of witnesses, and other like expenses incurred in the proceedings under this chapter.
3. If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in subsection 1, and subdivisions a and b of expenses payable by the supreme court under subsection 2, the court may

* NOTE: Section 27-20-49 was also amended by section 1 of Senate Bill No. 2298, chapter 387.

order them to pay the same and prescribe the manner of payment. Unless otherwise ordered payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county or the state to the county treasurer of the county or to the state treasurer.

SECTION 2. AMENDMENT. Subsection 1 of section 28-33-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. At all stages of any judicial or administrative proceedings ~~pursuant to chapter 28-32~~ in which a deaf person is a principal party in interest, the appointing authority shall appoint a qualified interpreter to interpret or to translate the proceedings to the deaf person and to interpret or translate ~~his~~ the person's testimony.

SECTION 3. AMENDMENT. Section 28-33-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-33-05. Compensation. An interpreter appointed under ~~the provisions of this chapter~~ shall be compensated by the appointing authority at a reasonable rate ~~to be determined by the appointing authority~~, including travel expenses. ~~Nothing in this~~ This section ~~shall be construed to does not~~ prevent any state department, board, commission, agency, or licensing authority or any political subdivision of the state from employing an interpreter on a full-time basis or under contract.

SECTION 4. AMENDMENT. Section 31-01-16 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-16. Compensation and mileage and travel expense of witness - County to pay fees except for district court fees in criminal action. A witness in a civil or criminal case is entitled to receive:

1. A sum of twenty-five dollars for each day necessarily in attendance before the district or county court or before any other court, board, or tribunal, except municipal court.
2. A sum for mileage and travel expense reimbursement equal to the reimbursement rates provided for state employees in sections 44-08-04 and 54-06-09.

In all criminal cases such witness fees and expenses on the part of the state must be paid out of the county treasury of the proper county except that in district court cases the attorney general shall pay prosecution witness fees and expenses, and the supreme court shall pay other witness fees for indigents and expenses must be paid by the state. In no event may prisoners. Prisoners may not be compensated as witnesses under ~~the provisions of this~~ section.

SECTION 5. AMENDMENT. Section 31-01-18 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-18. Expenses of witness paid by city, county, or state upon court order in criminal or municipal court action. When a person, as a

witness in a criminal or municipal court action, appears before a magistrate, grand jury, or court, upon a subpoena or in pursuance of an undertaking and it appears that ~~he~~ the person:

1. Has come from a place outside the county; or
2. Is poor and unable to pay the expenses of such attendance,

the court, if the attendance of the witness is upon a trial, by order upon its minutes, or in any other case, the judge, by a written order, may direct the state in district court cases, the county in county court cases, or the city in municipal court cases to pay the witness a reasonable sum to be specified in the order for the necessary expenses of the witness's attendance. Upon the production of the order or a certified copy thereof, the state, county, or city, to whichever entity the order is directed, must pay the witness the sum specified. In district court cases, the attorney general shall pay prosecution witness expenses and the supreme court shall pay other witness expenses.

Approved March 31, 1989
Filed March 31, 1989

CHAPTER 389

HOUSE BILL NO. 1590
(Sorensen)

APPOINTMENT OF JUDGES

AN ACT to amend and reenact sections 27-25-04 and 27-26-04 of the North Dakota Century Code, relating to filling a vacancy in the office of supreme, district, or county court judge; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-25-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-25-04. Governor to appoint or call special election. Within thirty days after receipt of the list of nominees, the governor shall do any of the following:

1. Fill the vacancy by appointment from the list of nominees submitted by the committee. The appointment shall continue only until the next general election, when the office shall be filled by election for the remainder of the term continues until the next general election, unless the next general election occurs within one year after the appointment, in which case the appointment continues until the following general election.
2. Return the list of nominees and direct the committee to reconvene.
3. Call a special election to fill the vacancy for the remainder of the term.

If the governor determines to call a special election to fill the vacancy, the governor shall issue a writ of election to the auditors of the counties in the district in which the district vacancy occurs commanding them to notify the boards of election in the counties to hold a special election at a time designated by the governor. If the governor determines to call a special election within sixty days of the time of the next general election, the special election shall be held at the same time as the general election.

SECTION 2. AMENDMENT. Section 27-26-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-26-04. Commissions to appoint or call special election.

1. Within thirty days after receipt of the list of nominees, the commissions affected shall do any of the following:
 - a. Fill the vacancy by appointment from the list of nominees submitted by the committee. The appointment ~~shall continue~~

only until the next general election; when the office shall be filled by election for the remainder of the term continues until the next general election, unless the next general election occurs within one year after the appointment, in which case the appointment continues until the following general election.

- b. Return the list of nominees and direct the committee to reconvene.
 - c. Call a special election to fill the vacancy for the remainder of the term. If a special election is called within sixty days of the time of the next general election, the special election shall be held at the same time as the general election.
2. Any action to fill a vacancy pursuant to this section must be approved by a majority of the members of each of the boards of county commissioners of the counties affected.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on the date that the proposed amendment to section 13 of article VI of the Constitution of North Dakota as contained in House Concurrent Resolution No. 3040, as agreed to by the fifty-first legislative assembly, is approved by the electors at the primary or general election in 1990.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 390

HOUSE BILL NO. 1598
(Representatives Dalrymple, Nicholas)
(Senators Freborg, Langley)

SEED MEDIATION BOARD

AN ACT to create and enact two new sections to chapter 4-09 of the North Dakota Century Code, relating to a state seed mediation board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 4-09 of the North Dakota Century Code are hereby created and enacted to read as follows:

State seed mediation board. The state seed mediation board consists of the commissioner of agriculture, the director of the agriculture extension service, the director of the North Dakota agricultural experiment station, the chairman of the North Dakota seed trade committee of the North Dakota agriculture association, and a representative of a major North Dakota farm organization appointed by the commissioner of agriculture, or their authorized designees.

Seed mediation board - Petition - Mediation hearing. A seed labeler and a seed customer shall petition the commissioner of agriculture in writing for a hearing to settle a dispute involving a seed transaction. The commissioner shall submit the dispute to the seed mediation board, and the board shall mediate the dispute upon payment by the parties of a sum determined by the board to be sufficient to reimburse the board for the expenses of the mediation process, including reasonable compensation of board members. The board, within thirty days after the hearing, shall make a nonbinding recommendation for the resolution of the dispute. Evidence presented to the board and any findings or recommendations by the board are admissible as evidence in any subsequent proceeding. The board shall adopt rules and procedures for mediation proceedings, including a formula for reimbursement by the parties of the expenses of the mediation process.

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