

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1077
(Judiciary Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact sections 12-48-15 and 12-48-22 of the North Dakota Century Code, relating to inmate funds and accounts and fines and restitution for the misconduct of offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned inmate funds - Warden to keep account of money earned by inmates—Investment in interest-bearing accounts inmate funds.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of any ~~administration~~ administratively ordered fee, fine or restitution, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment, or to pay for other services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to ~~penitentiary staff assistance and the right to appeal according to the director of the~~ department of corrections and rehabilitation rules. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation,

including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's spending account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden ~~shall~~ may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a correctional facility outside of this state; The warden shall pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is released on parole; or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48-22 of the North Dakota Century Code is amended and reenacted as follows:

12-48-22. Fines and restitution for misconduct of offender. The warden, with the approval of the director of the department of corrections and rehabilitation, shall institute and maintain a uniform system of fines and ~~penalties to be deducted~~ restitution for violation of department rules and when an offender causes personal injury or property damage. The warden may deduct the fine or restitution ~~from the compensation any funds credited to any offender for misconduct or refusal to perform the daily task assigned~~ an offender's penitentiary account or Bank of North Dakota two-signature account.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1077.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State