

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact subsection 1 of section 12.1-32-08 and section  
2 29-26-22.1 of the North Dakota Century Code, relating to docketing of restitution judgments.

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

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

6 1. Before imposing restitution or reparation as a sentence or condition of probation, the  
7 court shall hold a hearing on the matter with notice to the prosecuting attorney and to  
8 the defendant as to the nature and amount of restitution. The court, when sentencing a  
9 person adjudged guilty of criminal activities that have resulted in pecuniary damages,  
10 in addition to any other sentence the court may impose, shall order that the defendant  
11 make restitution to the victim or other recipient as determined by the court, unless the  
12 court states on the record, based upon the criteria in this subsection, the reason it  
13 does not order restitution or orders only partial restitution. Restitution must include  
14 payment to the owner of real property that is contaminated by the defendant in the  
15 manufacturing of methamphetamine for the cost of removing the contamination and  
16 returning the property to the property's condition before contamination and to any  
17 other person that has incurred costs in decontaminating the property. In determining  
18 whether to order restitution, the court shall take into account:

19 a. The reasonable damages sustained by the victim or victims of the criminal  
20 offense, which damages are limited to those directly related to the criminal  
21 offense and expenses actually incurred as a direct result of the defendant's  
22 criminal action. This can include an amount equal to the cost of necessary and  
23 related professional services and devices relating to physical, psychiatric, and  
24 psychological care. The defendant may be required as part of the sentence

1 imposed by the court to pay the prescribed treatment costs for a victim of a  
2 sexual offense as defined in chapters 12.1-20 and 12.1-27.2.

3 b. The ability of the defendant to restore the fruits of the criminal action or to pay  
4 monetary reparations, or to otherwise take action to restore the victim's property.

5 c. The likelihood that attaching a condition relating to restitution or reparation will  
6 serve a valid rehabilitational purpose in the case of the particular offender  
7 considered.

8 The court shall fix the amount of restitution or reparation, which may not exceed an  
9 amount the defendant can or will be able to pay, and shall fix the manner of  
10 performance of any condition or conditions of probation established pursuant to this  
11 subsection. The court shall order restitution be paid to the division of adult services for  
12 any benefits the division has paid or may pay under chapter 54-23.4 unless the court,  
13 on the record, directs otherwise. Any payments made pursuant to the order must be  
14 deducted from damages awarded in a civil action arising from the same incident. An  
15 order that a defendant make restitution or reparation as a sentence or condition of  
16 probation may, unless the court directs otherwise, be filed without filing fee,  
17 transcribed, and enforced by the person entitled to the restitution or reparation or by  
18 the division of adult services in the same manner as civil judgments rendered by the  
19 courts of this state may be enforced. Upon thirty days' written notice to the victim's last  
20 known address, the court may order the judgment imposing a duty to pay restitution or  
21 reparation be docketed in the same manner as a civil judgment under section  
22 29-26-22.1.

23 **SECTION 2. AMENDMENT.** Section 29-26-22.1 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **29-26-22.1. Judgment for fine ~~or~~, costs, restitution, or reparation in criminal cases -**  
26 **Docketing and enforcement.**

27 The court ~~may~~, within ten years of the date of entry of a judgment that imposes a fine,  
28 imposes a requirement that restitution or reparation be paid, or assesses costs against a  
29 defendant, may order the judgment to be docketed by the clerk of court in the judgment docket  
30 maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for  
31 money is docketed. The docketing of the judgment has the same effect as the docketing of a

1 civil judgment. The docketed judgment may be docketed in any other county in the same  
2 manner, it imposes a lien upon the real property owned by the defendant to the same extent, it  
3 is subject to the same statute of limitations, and it is enforceable by execution in the same  
4 manner as provided for a civil judgment for money. The court may direct a judgment be entered  
5 in favor of a person to whom restitution or reparation is ordered to be paid. That person may  
6 enforce the judgment as a civil judgment.