

GENERAL PROVISIONS

CHAPTER 54

SENATE BILL NO. 2036

(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact section 4.1-45-22.1 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; to amend and reenact subsection 7 of section 12.1-31.2-01, section 14-09-00.1, subsection 1 of section 14-09-06.2, subsection 2 of section 27-20-30.1, subsection 1 of section 27-20-45, sections 43-62-01 and 43-62-15, subsection 5 of section 53-06.1-06, section 57-02-08.6, subsection 7 of section 57-38-30.3, and section 57-60-14 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to repeal sections 4.1-55-22.1, 6-09.8-04, 6-09.11-02, and 15-08.1-09 and chapter 61-21.1 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 4.1-45-22.1 of the North Dakota Century Code is created and enacted as follows:

4.1-45-22.1. Facility operations and maintenance costs.

Facility operations and maintenance costs, other than costs resulting from a natural disaster, are to be funded by state fair association funds.

¹⁴ **SECTION 2. AMENDMENT.** Subsection 7 of section 12.1-31.2-01 of the North Dakota Century Code is amended and reenacted as follows:

7. A disorderly conduct restraining order must contain a conspicuous notice to the respondent providing:
 - a. The specific conduct that constitutes a violation of the order;
 - b. Notice that violation of the restraining order is a class A misdemeanor punishable by imprisonment of up to one year, three hundred sixty days or a fine of up to ~~two~~ three thousand dollars or both; and
 - c. Notice that a peace officer may arrest the respondent without a warrant and take the respondent into custody if the peace officer has probable cause to believe the respondent has violated an order issued under this section.

¹⁴ Section 12.1-31.2-01 was also amended by section 2 of Senate Bill No. 2071, chapter 114.

SECTION 3. AMENDMENT. Section 14-09-00.1 of the North Dakota Century Code is amended and reenacted as follows:

14-09-00.1. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Decisionmaking responsibility" means the responsibility to make decisions concerning the child. The term may refer to decisions on all issues or on specified issues, but not child support issues.
2. "Harm" means negative changes in a child's health which occur when an individual responsible for the child's welfare:
 - a. Inflicts, or allows to be inflicted, upon the child, physical or mental injury, including injuries sustained as a result of excessive corporal punishment;
or
 - b. Commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20.
3. "Parental rights and responsibilities" means all rights and responsibilities a parent has concerning the parent's child.
- ~~3-4.~~ "Parenting plan" means a written plan describing each parent's rights and responsibilities.
- ~~4-5.~~ "Parenting schedule" means the schedule of when the child is in the care of each parent.
- ~~5-6.~~ "Parenting time" means the time when the child is to be in the care of a parent.
- ~~6-7.~~ "Primary residential responsibility" means a parent with more than fifty percent of the residential responsibility.
- ~~7-8.~~ "Residential responsibility" means a parent's responsibility to provide a home for the child.

SECTION 4. AMENDMENT. Subsection 1 of section 14-09-06.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For the purpose of parental rights and responsibilities, the best interests and welfare of the child is determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:
 - a. The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurture, love, affection, and guidance.
 - b. The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.
 - c. The child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future.

- d. The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child has lived in each parent's home, and the desirability of maintaining continuity in the child's home and community.
- e. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.
- f. The moral fitness of the parents, as that fitness impacts the child.
- g. The mental and physical health of the parents, as that health impacts the child.
- h. The home, school, and community records of the child and the potential effect of any change.
- i. If the court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature child. The court also shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.
- j. Evidence of domestic violence. In determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent have residential responsibility. The court shall cite specific findings of fact to show that the residential responsibility best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the court. If the court awards residential responsibility to a third person, the court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent residential responsibility. As used in this subdivision, "domestic violence" means domestic violence as defined in section 14-07.1-01. A court may consider, but is not bound by, a finding of domestic violence in another proceeding under chapter 14-07.1.
- k. The interaction and inter-relationship, or the potential for interaction and inter-relationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The court shall consider that person's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault, on other persons.

- l. The making of false allegations not made in good faith, by one parent against the other, of harm to a child ~~as defined in section 50-25-1-02.~~
- m. Any other factors considered by the court to be relevant to a particular parental rights and responsibilities dispute.

15 SECTION 5. AMENDMENT. Subsection 2 of section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A petition to commence an action under this section must contain information ~~as required under section 27-20-21~~ by supreme court rule along with an affidavit either prepared by the administrative county, as determined by the department of human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.

16 SECTION 6. AMENDMENT. Subsection 1 of section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

1. The petition must ~~comply with section 27-20-21~~ contain information as required by supreme court rule and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20-46.

SECTION 7. AMENDMENT. Section 43-62-01 of the North Dakota Century Code is amended and reenacted as follows:

43-62-01. Definitions.

As used in this chapter:

1. "Board" means the North Dakota medical imaging and radiation therapy board.
2. "Certification organization" means a national certification organization that specializes in the certification and registration of medical imaging and radiation therapy technical personnel and which has programs accredited by the national commission for certifying agencies, American national standards institute or the international organization for standardization, or other accreditation organization recognized by the board.
3. "Licensed practitioner" means a licensed physician, advanced practice registered nurse, chiropractor, dentist, or podiatrist.
4. "Licensee" means an individual licensed by the board to perform medical imaging or radiation therapy and operate medical imaging or radiation therapy equipment, including a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist.
5. "Medical imaging" means the performance of any diagnostic or interventional procedure or operation of medical imaging equipment intended for use in the

¹⁵ Section 27-20-30.1 was also amended by section 29 of Senate Bill No. 2124, chapter 391.

¹⁶ Section 27-20-45 was also amended by section 34 of Senate Bill No. 2124, chapter 391.

diagnosis or visualization of disease or other medical conditions in human beings, including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or x-rays.

6. "Medical physicist" means an individual who is certified by the American board of radiology, American board of medical physics, American board of science in nuclear medicine, or Canadian college of physics in medicine in radiological physics or one of the subspecialties of radiological physics.
7. "Primary modality" means an individual practicing as a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist.
8. "Protected health information" has the same meaning as provided under section 23-01.3-01.
9. "Radiation therapy" means the performance of any procedure or operation of radiation therapy equipment intended for use in the treatment of disease or other medical conditions in human beings.
10. "Radiation therapist" means an individual, other than a licensed practitioner or authorized user, who performs procedures and applies ionizing radiation emitted from x-ray machines, particle accelerators, or sealed radioactive sources to human beings for therapeutic purposes.

(Contingent effective date - [See note](#)) Definitions.

As used in this chapter:

1. "Board" means the North Dakota medical imaging and radiation therapy board.
2. "Certification organization" means a national certification organization that specializes in the certification and registration of medical imaging and radiation therapy technical personnel and which has programs accredited by the national commission for certifying agencies, American national standards institute or the international organization for standardization, or other accreditation organization recognized by the board.
3. "Licensed practitioner" means a licensed physician, advanced practice registered nurse, chiropractor, dentist, or podiatrist.
4. "Licensee" means an individual licensed by the board to perform medical imaging or radiation therapy and operate medical imaging or radiation therapy equipment, including a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, limited x-ray machine operator, sonographer, or magnetic resonance imaging technologist.
5. "Medical imaging" means the performance of any diagnostic or interventional procedure or operation of medical imaging equipment intended for use in the diagnosis or visualization of disease or other medical conditions in human beings, including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or x-rays.
6. "Medical physicist" means an individual who is certified by the American board of radiology, American board of medical physics, American board of science in

nuclear medicine, or Canadian college of physics in medicine in radiological physics or one of the subspecialties of radiological physics.

7. "Primary modality" means an individual practicing as a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist.
8. "Protected health information" has the same meaning as provided under section 23-01.3-01.
9. "Radiation therapy" means the performance of any procedure or operation of radiation therapy equipment intended for use in the treatment of disease or other medical conditions in human beings.
10. "Radiation therapist" means an individual, other than a licensed practitioner or authorized user, who performs procedures and applies ionizing radiation emitted from x-ray machines, particle accelerators, or sealed radioactive sources to human beings for therapeutic purposes.

SECTION 8. AMENDMENT. Section 43-62-15 of the North Dakota Century Code is amended and reenacted as follows:

43-62-15. Scope of practice.

1. A license issued by the board under this chapter must specify each medical imaging or radiation therapy modality for which the licensee is qualified to practice under section 43-62-14.
2. The board shall adopt by rule standards concerning scope of practice for medical imaging and radiation therapy modalities, including:
 - a. Nuclear medicine technologist;
 - b. Radiation therapist;
 - c. Radiographer;
 - d. Radiologist assistant;
 - e. Sonographer; and
 - f. Magnetic resonance imaging technologist.
3. A licensee's performance of medical imaging or radiation therapy on humans for diagnostic or therapeutic purposes must be by written, facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe medical imaging or radiation therapy and must be under the supervision of a licensed practitioner.
4. A licensee's performance of medical imaging and radiation therapy on humans for diagnostic or therapeutic purposes is limited to the scope of the medical imaging and radiation therapy modality of that license as specified under the rules adopted by the board.

(Contingent effective date - [See note](#)) Scope of practice.

1. A license issued by the board under this chapter must specify each medical imaging or radiation therapy modality for which the licensee is qualified to practice under section 43-62-14.
2. The board shall adopt by rule standards concerning scope of practice for medical imaging and radiation therapy modalities, including:
 - a. Nuclear medicine technologist;
 - b. Radiation therapist;
 - c. Radiographer;
 - d. Radiologist assistant;
 - e. Sonographer;
 - f. Magnetic resonance imaging technologist; and
 - g. ~~X-ray~~limited x-ray machine operator.
3. A licensee's performance of medical imaging or radiation therapy on humans for diagnostic or therapeutic purposes must be by written, facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe medical imaging or radiation therapy and must be under the supervision of a licensed practitioner.
4. A licensee's performance of medical imaging and radiation therapy on humans for diagnostic or therapeutic purposes is limited to the scope of the medical imaging and radiation therapy modality of that license as specified under the rules adopted by the board.

SECTION 9. AMENDMENT. Subsection 5 of section 53-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

5. A person is restricted from being involved in gaming and the attorney general shall conduct a criminal history record check as follows:
 - a. (1) A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, a gaming rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal government equivalent to offenses defined in these chapters, regardless of whether the person has completed or received a deferred imposition of sentence, ~~deferred prosecution~~, or suspended sentence, may not be a licensed distributor, be an investor in or board member or consultant to a licensed distributor, or be employed by a licensed distributor, and may not be employed by a licensed organization to conduct games, for five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
 - (2) Paragraph 1 does not apply if the offense to which the person pled guilty or has been found guilty is a misdemeanor and the person has received a deferred imposition of sentence ~~or deferred prosecution~~ and has fully complied with the terms of the deferral.

- b. A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of section 6-08-16.1 or chapter 12.1-06, 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a municipality equivalent to these offenses, regardless if the person has completed or received a suspended sentence, may not be a licensed distributor or be employed by a licensed distributor, and may not be employed by a licensed organization to conduct games, for two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest, unless the person has received a deferred imposition of sentence ~~or deferred prosecution~~ and has fully complied with the terms of the deferral.
- c. Unless an employee is exempt by the gaming rules or attorney general, the attorney general shall conduct a criminal history record check of each employee of a licensed organization or distributor and charge a fee prescribed by section 12-60-16.9. The fee may be waived by the attorney general if a federal agency or local law enforcement agency has done a record check. The attorney general may require advance payment of any additional fee necessary to pay the cost of a record check of a person for whom adequate background information sources are not readily available. The advance payment must be placed in the attorney general's refund fund. The unused funds must be returned to the person within thirty days of the conclusion of the record check. Unless a federal or local law enforcement agency conducts the record check, the attorney general shall notify the organization or distributor and person of the result. The attorney general shall keep the information confidential except in the proper administration of this chapter or any gaming rule or to provide to an authorized law enforcement agency.

SECTION 10. AMENDMENT. Section 57-02-08.6 of the North Dakota Century Code is amended and reenacted as follows:

57-02-08.6. Authorization for receipt of funds.

The state treasurer is authorized to receive funds for ~~this~~ the wetlands property tax exemption program by legislative appropriation and by gift, grant, devise, or bequest of any money or property from any private or public source. Funds appropriated from any source for this purpose are not subject to section 54-44.1-11 and all income and moneys derived from the investment of the funds must be credited to the fund for ~~this~~ the wetlands property tax exemption program. The director of the game and fish department, the agriculture commissioner, and the state engineer shall work with the governor, the United States fish and wildlife service, nonprofit conservation organizations, and any other public official or private organization or citizen to develop a source of funding to implement sections 57-02-08.4 and 57-02-08.5.

SECTION 11. AMENDMENT. Subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

7. A taxpayer filing a return under this section is entitled to the following tax credits:

¹⁷ Section 57-38-30.3 was also amended by section 2 of House Bill No. 1040, chapter 487, section 1 of House Bill No. 1053, chapter 490, section 3 of House Bill No. 1174, chapter 486, section 1 of House Bill No. 1276, chapter 488, section 2 of House Bill No. 1406, chapter 485, section 1 of House Bill No. 1475, chapter 489.

- a. Family care tax credit under section 57-38-01.20.
- b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
- c. Agricultural business investment tax credit under section 57-38.6-03.
- d. Seed capital investment tax credit under section 57-38.5-03.
- e. Planned gift tax credit under section 57-38-01.21.
- f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
- g. Internship employment tax credit under section 57-38-01.24.
- h. Workforce recruitment credit under section 57-38-01.25.
- i. ~~Angel fund investment tax credit under section 57-38-01.26 (effective for the first taxable year beginning after December 31, 2016).~~
- j. Marriage penalty credit under section 57-38-01.28.
- ~~k.~~j. Research and experimental expenditures under section 57-38-30.5.
- ~~l.~~k. Geothermal energy device installation credit under section 57-38-01.8.
- ~~m.~~l. Long-term care partnership plan premiums income tax credit under section 57-38-29.3.
- ~~n.~~m. Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.
- ~~o.~~ Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).
- ~~p.~~n. Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.
- ~~q.~~o. Angel investor tax credit under section 57-38-01.26.

SECTION 12. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. Allocation of revenue - Continuing appropriation.

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02 and through December 31, 2009, the first \$41,666.67 each month from the tax imposed by subsections 1 and 4 of section 57-60-02, which must be deposited in the state general fund. From July 1, 2007, through June 30, 2009, three and one-half percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the lignite research

~~fund and after June 30, 2009, five~~Five percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year, ~~except that through December 31, 2009, the portion of the revenue allocation to each county which is attributable to a coal-gasification coal conversion facility must exclude consideration of calendar year 2001, and be based on calendar year 2000 or the appropriate year after 2001, whichever is greater.~~ For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.
3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, ~~that county must receive for calendar year 2002 at least as much under this section as was received by that county and taxing districts in that county in property taxes for that facility for taxable year 2001. For~~for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 13. REPEAL. Sections 4.1-55-22.1, 6-09.8-04, 6-09.11-02, and 15-08.1-09 and chapter 61-21.1 of the North Dakota Century Code are repealed.

Approved April 11, 2019

Filed April 12, 2019

CHAPTER 55

HOUSE BILL NO. 1169

(Representatives Schauer, K. Koppelman, Satrom, Strinden)
(Senator Clemens)

AN ACT to create and enact a new section to chapter 1-03 of the North Dakota Century Code, relating to annual observance of Patriots' Day.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 1-03 of the North Dakota Century Code is created and enacted as follows:

Patriots' Day.

The third Monday in April of each year is Patriots' Day. To commemorate the start of the American Revolutionary War and the battles of Lexington and Concord, the governor shall issue a proclamation each year designating the third Monday in April as Patriots' Day. This section may not be interpreted to make Patriots' Day a day on which schools and other entities are required to close.

Approved March 19, 2019

Filed March 20, 2019