23.8024.01000

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1087

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

A BILL for an Act to create and enact a new section to chapter 29-32.1 of the North Dakota Century Code, relating to summary disposition; and to amend and reenact section 29-32.1-09 of the North Dakota Century Code, relating to summary disposition and dismissal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-32.1-09 of the North Dakota Century Code is amended and reenacted as follows:

29-32.1-09. Summary ~~disposition~~dismissal.

1. The court, on its own motion, may enter a judgment denying a meritless application on any and all issues raised in the application before any response by the state. The court also may summarily deny a second or successive application for similar relief on behalf of the same applicant and may summarily deny any application when the issues raised in the application have previously been decided by the appellate court in the same case.
2. The court, on its own motion, may dismiss any grounds of an application which allege ineffective assistance of postconviction counsel. An applicant may not claim constitutionally ineffective assistance of postconviction counsel in proceedings under this chapter.
3. ~~The court may grant a motion by either party for summary disposition if the application, pleadings, any previous proceeding, discovery, or other matters of record show that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.~~
4. ~~If an evidentiary hearing is necessary, the court may determine which issues of material fact are in controversy and appropriately restrict the hearing.~~

SECTION 2. A new section to chapter 29-32.1 of the North Dakota Century Code is created and enacted as follows:

Summary disposition.

1. The court may grant a motion by either party for summary disposition if the application, pleadings, any previous proceeding, discovery, or other matters of record show that no genuine issues exist as to any material fact and the moving party is entitled to judgment as a matter of law.
2. If an evidentiary hearing is necessary, the court may determine which issues of material fact are in controversy and appropriately restrict the hearing.