

JUDICIAL PROCEDURE, CIVIL

CHAPTER 297

SENATE BILL NO. 2282

(Senators Dwyer, Estenson, Vedaa)
(Representatives Cory, O'Brien, Pyle)

AN ACT to create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to the limitation on claims for sexual assault; and to amend and reenact sections 28-01-18, 28-01-22.1, 28-01-25.1, and 32-12.1-10, and subsection 1 of section 32-12.2-04 of the North Dakota Century Code, relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse, and the notice requirement for claims against the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-01-18 of the North Dakota Century Code is amended and reenacted as follows:

28-01-18. Actions having two-year limitations.

~~The~~Except as provided in section 4 of this Act, the following actions must be commenced within two years after the claim for relief has accrued:

1. An action for libel, slander, assault, battery, or false imprisonment.
2. An action upon a statute for a forfeiture or penalty to the state.
3. An action for the recovery of damages resulting from malpractice; provided, however, that the limitation of an action against a physician or licensed hospital will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or licensed hospital. This limitation is subject to the provisions of section 28-01-25.
4. An action for injuries done to the person of another, when death ensues from such injuries, and the claim for relief must be deemed to have accrued at the time of the death of the party injured; provided, however, that when death ensues as the result of malpractice, the claim for relief is deemed to have accrued at the time of the discovery of the malpractice. However, the limitation will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or hospital.
5. An action for recovery of damages arising under chapter 5-01, and the claim for relief is deemed to have accrued at the time of the alleged

offense. This limitation does not apply to any claim for relief existing at the time of the enactment of this subsection.

SECTION 2. AMENDMENT. Section 28-01-22.1 of the North Dakota Century Code is amended and reenacted as follows:

28-01-22.1. Actions against state - Limitation.

1. When not otherwise specifically provided by law, an action against the state or its employees and officials acting within the scope of their employment or office must be commenced within three years after the claim for relief has accrued.
2. For purposes of this section, the claim for relief is deemed to have accrued at the time it is discovered or might have been discovered in the exercise of reasonable diligence. This may not be construed as a waiver of immunity.
3. Notwithstanding subsections 1 and 2, an action for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:
 - a. Within nine years after the date the act occurred; or
 - b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.
4. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

SECTION 3. AMENDMENT. Section 28-01-25.1 of the North Dakota Century Code is amended and reenacted as follows:

28-01-25.1. Limitation on actions alleging childhood sexual abuse.

1. Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual abuse must be commenced within ~~twenty-one~~ years after the plaintiff ~~knew or reasonably should have known that a potential claim exists~~ resulting from alleged childhood sexual abuse accrued.
2. If the plaintiff was under fifteen years of age when the act resulting in a potential claim for childhood sexual abuse occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.
3. For purposes of this section, "childhood sexual abuse" means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under eighteen years of age and which would have been a violation of chapter 12.1-20 or 12.1-27.2.
4. In a claim for relief under this section, the plaintiff is not required to establish which act in a continuous series of sexual abuse acts by the defendant caused the injury.

SECTION 4. A new section to chapter 28-01 of the North Dakota Century Code is created and enacted as follows:

Limitation on claims for sexual assault.

A claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced within nine years after the date of the act.

SECTION 5. AMENDMENT. Section 32-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-10. Statute of limitations.

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1. Except as otherwise provided in this section, an action brought under this chapter must be commenced within three years after the claim for relief has accrued.
2. An action under this chapter for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:
 - a. Within nine years after the date the act occurred; or
 - b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.
3. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

SECTION 6. AMENDMENT. Subsection 1 of section 32-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1.
 - a. A person bringing a claim against the state or a state employee for an injury shall present to the director of the office of management and budget within one hundred eighty days after the alleged injury is discovered or reasonably should have been discovered a written notice stating the time, place, and circumstances of the injury, the names of any state employees known to be involved, and the amount of compensation or other relief demanded.
 - b. The time for giving the notice does not include the time during which a person injured is incapacitated by the injury from giving the notice. If the claim is one for death, the notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury resulting in the death.
 - c. The time for giving the notice is waived for a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 298**HOUSE BILL NO. 1291**

(Representative Dockter)

AN ACT to amend and reenact section 28-21-01 of the North Dakota Century Code, relating to execution of a judgment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-21-01 of the North Dakota Century Code is amended and reenacted as follows:

28-21-01. Execution at any time within ~~ten~~twenty years.

A judgment creditor or the party's duly appointed personal representatives at any time within ~~ten~~twenty years after the entry of judgment may proceed to enforce the judgment by execution as provided in this chapter. If the judgment creditor in a mortgage foreclosure does not proceed within sixty days after entry of judgment in the foreclosure to serve a special execution and proceed without delay to a sheriff's sale, any other lienholder or other interested person may obtain the special execution and proceed to arrange for a sheriff's sale.

Approved March 15, 2023

Filed March 16, 2023

CHAPTER 299

SENATE BILL NO. 2206

(Senators Piepkorn, Klein, Weber)
(Representatives Louser, Mitskog, Ostlie)

AN ACT to amend and reenact sections 28-22-03.1, 47-18-01, 47-18-04, and 47-18-14 of the North Dakota Century Code, relating to insurance cash value exemptions and homestead exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-22-03.1 of the North Dakota Century Code is amended and reenacted as follows:

28-22-03.1. Additional exemptions for residents.

In addition to the exemptions from all attachment or process, levy and sale upon execution, and any other final process issued from any court, otherwise provided by law, a resident of the state may select:

1. In lieu of the homestead exemption, up to ~~ten~~twenty-five thousand dollars. This exemption is not available if the resident exemption claimant, the spouse of the resident exemption claimant, or other head of the family of the resident exemption claimant has chosen the homestead exemption provided for under subsection 7 of section 28-22-02.
2. A motor vehicle exemption in one vehicle not to exceed ~~twenty~~ thousand ~~nine hundred fifty~~ dollars in value over security interests and liens upon that vehicle, or a motor vehicle exemption in one vehicle not to exceed ~~thirty-two~~thirty-five thousand dollars for a motor vehicle that has been modified at a cost of not less than one thousand five hundred dollars to accommodate an individual with a permanent physical disability who is the owner of that motor vehicle.
3. The debtor's aggregate interest, not to exceed ~~one~~ten thousand ~~five hundred~~ dollars in value, in any tools, implements, or professional books of the trade of the debtor or the trade of a dependent of the debtor.
4. Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.
5. The debtor's aggregate interest, not to exceed in value ~~eight~~one hundred thousand dollars less any amount of property transferred in the manner specified in 11 U.S.C. 542(d), in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent. Any cash deposit not previously scheduled to be made into a life insurance policy or nonqualified annuity over the previous twelve months is not exempt. Benefits are not exempt from enforcement of any order to pay spousal support, child support, or a qualified domestic order under sections 15-39.1-12.2, 39-03-14.2, and 54-52-17.6.

6. Professionally prescribed health aids for the debtor or a dependent of the debtor.
7. Retirement funds that have been in effect for at least one year, to the extent those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. The value of those assets exempted may not exceed ~~one~~two hundred thousand dollars for any one account or ~~two~~four hundred thousand dollars in aggregate for all accounts. The dollar limit does not apply to the extent this property is reasonably necessary for the support of the resident and that resident's dependents. Retirement funds are not exempt from enforcement of any order to pay spousal support or child support, or a qualified domestic relations order under sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6. As used in this subsection, "reasonably necessary for the support" means required to meet present and future needs, as determined by the court after consideration of the resident's responsibilities and all the present and anticipated property and income of the resident, including that which is exempt.
8. The debtor's right to receive:
 - a. A social security benefit, except that the benefit is not exempt for enforcement of any order for the support of a dependent child.
 - b. Veteran's disability pension benefits, not including military retirement pay, except that the benefits are not exempt from process levy or sale for enforcement of any order for the support of a dependent child.
 - c. A disability, illness, or unemployment benefit.
 - d. Alimony, support, or separate maintenance, but not property settlements, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
 - e. A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless:
 - (1) That plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under that plan or contract arose;
 - (2) That payment is on account of age or length of service; and
 - (3) That plan or contract does not qualify under section 401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 1986.
9. The debtor's right to receive, or property that is traceable to:
 - a. An award under a crime victim's reparation law.
 - b. A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

- c. A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
- d. A payment, not to exceed eighteen thousand four hundred fifty dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.
- e. A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

SECTION 2. AMENDMENT. Section 47-18-01 of the North Dakota Century Code is amended and reenacted as follows:

47-18-01. Homestead exemption - Area and value.

The homestead of any individual, whether married or unmarried, residing in this state consists of the land upon which the claimant resides, and the dwelling house on that land in which the homestead claimant resides, with all its appurtenances, and all other improvements on the land, the total not to exceed one hundred fifty thousand dollars in value, over and above liens or encumbrances or both. The homestead shall be exempt from judgment lien and from execution or forced sale, except as otherwise provided in this chapter. The homestead may not embrace different lots or tracts of land unless the lots or tracts of land are contiguous. For purposes of this section, "contiguous" means two or more tracts of real property which share a common point or which would share a common point but for an intervening road or right of way.

SECTION 3. AMENDMENT. Section 47-18-04 of the North Dakota Century Code is amended and reenacted as follows:

47-18-04. When homestead subject to execution.

A homestead is subject to execution or forced sale in satisfaction of judgments obtained in the following cases:

1. On debts secured by mechanics', construction, or laborers' liens for work or labor done or performed or material furnished exclusively for the improvement of the same.
2. On debts secured by mortgage on the premises executed and acknowledged by both husband and wife, or an unmarried claimant.
3. On debts created for the purchase thereof and for all taxes accruing and levied thereon.
4. On all other debts when, upon an appraisal as provided by section 47-18-06, it appears that the value of the homestead is more than one hundred fifty thousand dollars over and above liens or encumbrances on the homestead, and then only to the extent of any value in excess of the sum total of the liens and encumbrances plus said one hundred fifty thousand dollars.

SECTION 4. AMENDMENT. Section 47-18-14 of the North Dakota Century Code is amended and reenacted as follows:

47-18-14. Proceeds of sale exempt - Disposition.

If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a married claimant whose spouse is living, the court may direct that the one hundred fifty thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by either spouse as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly.

Approved April 26, 2023

Filed April 26, 2023

CHAPTER 300

HOUSE BILL NO. 1055

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact subdivision a of subsection 2 of section 28-32-01 and section 32-12.2-14 of the North Dakota Century Code, relating to the administrative practices act and review of accidents involving state-owned or state-leased motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. The office of management and budget except with respect to rules made under section ~~32-12.2-14~~, rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the classified service as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.

SECTION 2. AMENDMENT. Section 32-12.2-14 of the North Dakota Century Code is amended and reenacted as follows:

32-12.2-14. Risk management motor vehicle accident~~crash~~ review board-- Powers -- Records -- Meetings.

~~The director of the office of management and budget shall establish a risk management motor vehicle accident review board to review any accident involving a motor vehicle owned or leased by the state and operated by a state employee that results in bodily injury or significant property damage. The board is composed of the director of the department of transportation, or the director's designee, who shall serve as chairman of the board; the director of the office of management and budget, or the director's designee; the superintendent of the highway patrol or the superintendent's designee; and two state employees selected by the other board members to serve two-year terms.~~

~~The risk management motor vehicle accident review board shall review accidents involving state-owned or state-leased vehicles operated by state employees that result in bodily injury or significant property damage in order to improve traffic safety and driver training and to reduce the number of traffic accidents. The board shall adopt rules concerning receiving accident reports, holding meetings, receiving verbal or written information, making recommendations, communicating with state agencies and employees, and informing state agencies of its recommendations. Three members of the board constitute a quorum and an affirmative vote of at least three board members is required for the board to take action and make a recommendation.~~

~~The duties of the chairman include scheduling meetings; notifying participants; receiving and maintaining board records, reports, and other material; and communicating with agencies concerning the board's recommendations.~~

~~The department of transportation shall report state motor vehicle-related accidents to the board for review involving bodily injury or significant property damage or if there was a citation issued to the state employee operating the state-owned or state-leased motor vehicle. After review, the board may recommend driver training; defensive driver training; emergency vehicle operational training; physical, written, or operational examinations; or restrictions on the use of state-owned or state-leased motor vehicles. The state agency employing the employee operating the state-owned or state-leased motor vehicle involved in the traffic accident shall decide whether to implement the board's recommendation.~~

~~State employees must be paid and may not be required to take any leave for time needed to assist the board, and all state employers shall reimburse their employees for travel expenses incurred in assisting the board.~~

~~The board must be deemed to be a state agency loss control committee under section 32-12.2-12 and all of the board's current or former members and all participants providing any verbal or written information to the board are entitled to the rights against production of records or testimony as contained in this section.~~

~~The department of transportation shall internally review all accidents involving a motor vehicle owned or leased by the state that is not submitted to the board for review to determine whether the accident was preventable and make recommendations to the agency employing the employee involved in the accident which may include recommendations on the same issues as made by the board. The department may defer to the determinations and recommendations of an agency loss control committee approved by the board. An employee may request further review by the board of any determination or recommendation of the department. The department of transportation, in consultation with the risk management division, shall review all motor vehicle crashes or incidents in which a state employee is issued a traffic citation involving a state-owned or state-leased motor vehicle for purposes of making a remedial recommendation to the agency employing the individual involved, as appropriate, and identifying crash and other trends. The department may defer to the determination and recommendation of an agency that reviewed the crash through an established loss control committee. In cases of repeated crashes, citations, or accidents involving substantial property damage or personal injury, or traffic violations for which there is a criminal penalty, the department may revoke, suspend, or restrict the ability to drive a state-owned or state-leased vehicle.~~

Approved March 14, 2023

Filed March 15, 2023