

# JUDICIAL PROOF

## CHAPTER 213

S. B. No. 228  
(Holand and Knudson)

### COMPETENCY OF SPOUSE AS WITNESS; EXCEPTION

#### AN ACT

To amend and reenact section 31-0102 of the North Dakota Revised Code of 1943, relating to competency as a witness of one spouse against the other.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 31-0102 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**31-0102. Competency of Husband Or Wife As Witness; Communications Made During Marriage; Exceptions.)** A husband cannot be examined as a witness for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This section, however, shall not apply to a civil action or proceeding by one against the other, nor to a civil action or proceeding where one spouse attacks the character of the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to an action or proceeding to enforce support of minor children.

Approved March 5, 1955.

## CHAPTER 214

H. B. No. 687  
(Brooks and Gefreh)

## EXAMINATION OF ADVERSE PARTIES BEFORE TRIAL

## AN ACT

To amend and reenact section 31-0203 of the North Dakota Revised Code of 1943, relating to the examination of adverse parties before trial and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 31-0203 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**31-0203. Examination of Adverse Party Before Trial: Notice; Reference; Compelling Attendance.)** The examination instead of being had at the trial as provided in section 31-0202, at the option of the party claiming it, may be had at any time before the trial before a judge of the court in which the action is pending or before a referee appointed for that purpose by a judge of such court. If such examination is had before trial, notice of not less than five days shall be given to the party to be examined and to any other adverse party, unless for good cause shown the judge orders otherwise. The party to be examined shall not be compelled to attend in any county other than that of his residence or where he may be served with a subpoena for his attendance, except that nonresidents instituting actions in North Dakota or counterclaiming in pending actions shall be subject to examination in the judicial district in which the action is commenced. If a referee is appointed, the provisions of c. 17 of the title Judicial Procedure, Civil, shall be applicable thereto and the referee shall take the testimony either himself or by a stenographer in his presence. The testimony so taken shall be certified by the referee.

§ 2. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 28, 1955.

## CHAPTER 215

S. B. No. 56  
(Duffy)

## SIMULTANEOUS DEATH—SURVIVORSHIP

## AN ACT

To amend and reenact section 31-1206 of the North Dakota Revised Code of 1943, relating to the application of chapter 31-12 where other provision is made by the decedent.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Amendment.) Section 31-1206 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**31-1206. Chapter Does Not Apply If Decedent Provides Otherwise.)** This chapter shall not apply in the case of wills, living trusts, deeds, or contracts of insurance, or any other situation where provision is made for distribution of property different from the provisions of this chapter, or where provision is made for a presumption as to survivorship which results in a distribution of property different from that here provided.

Approved March 1, 1955.