

CRIMES AND PUNISHMENTS

CHAPTER 116

H. B. No. 711

(Aamoth)

FALSE THREATS OF DANGER

AN ACT

Providing a penalty for conveying or causing to be conveyed known false information concerning an alleged attempt to endanger in any way any private or public building or structure, meeting or gathering, or any public carrier.

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

§ 1. False Information Concerning Public or Private Buildings or Meetings or Public Carriers—Penalty.) It shall be a felony punishable by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment, to impart or convey, or to cause to be imparted or conveyed, false information, knowing such information to be false, concerning an attempt or alleged attempt to place in jeopardy or to endanger in any way any private or public building or structure, meeting or gathering, or any public carrier of either passengers or freight.

Approved March 13, 1963.

CHAPTER 117

H. B. No. 704

(Loder)

PROSTITUTION

AN ACT

To amend and reenact section 12-22-17 of the North Dakota Century Code, relating to prostitution, lewdness, assignation, and the punishment therefor.

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

§ 1. Amendment.) Section 12-22-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-22-17. Prostitution, Lewdness, Assignment — Punishment.) Any person who shall be convicted of any of the offenses set forth in section 12-22-14 shall be subject to imprisonment in the penitentiary for not less than one year nor more than five years, or in the county jail for not more than one year, or by a fine of not more than one thousand dollars or by both such fine and imprisonment.

Approved March 5, 1963.

CHAPTER 118

S. B. No. 63

(Morgan, Longmire, Becker, Sinner, Mutch, Holand, Brooks,) (Trenbeath, Meidinger, Van Horn, Bopp, Wartner)

BRIBERY OF ATHLETES

AN ACT

To create and enact sections 12-23-08 and 12-23-09 of the North Dakota Century Code, providing a penalty for the offering or accepting of bribes calculated to affect the result of amateur or professional games, contests, or athletic events.

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

§ 1.) Section 12-23-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-23-08. Offering Bribe to Affect Result of Athletic Event — Penalty.) Any person who gives, offers, or promises to give any gift, emolument, money, gratuity, favor, testimonial, privilege, appointment, personal advantage, or thing of value to any participant, prospective participant, official, prospective official, or any person having any duty or connection with any participant, prospective participant, official, prospective official, game, contest, or athletic event, or who attempts directly or indirectly by menace, deceit, fraud, or threat to influence or who calculates to influence the result of any amateur or professional game, contest, or athletic event is punishable by imprisonment in the state penitentiary for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.

§ 2.) Section 12-23-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-23-09. Accepting Bribe to Affect Result of Athletic Event — Penalty.) Any participant, prospective participant,

official, prospective official, or any person having any duty or connection with any participant, prospective participant, official, prospective official or amateur or professional game, contest, or athletic event who asks, receives, agrees to receive, or solicits in any way any gift, emolument, money, gratuity, favor, testimonial, privilege, appointment, personal advantage, or thing of value to influence him in any way to affect the result, or attempt to affect the result of any amateur or professional game, contest, or athletic event is punishable by imprisonment for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment, except that a participant or prospective participant of either a high school or college game, contest, or athletic event shall be punishable by imprisonment for not more than ninety days, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Approved March 4, 1963.

CHAPTER 119

S. B. No. 102

(Morgan, Kjos, Dahlund)

DEPOSIT OF REFUSE

AN ACT

To amend and reenact subsection 6 of section 12-41-11 of the North Dakota Century Code, prohibiting the hauling or depositing of refuse upon the land of another.

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

§ 1. Amendment.) Subsection 6 of section 12-41-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Hauling or depositing upon the real estate, lot, or farm of another any dead horse, dog, cow, or other animal, or any manure, offal, putrid or unsound beef, pork, fish, hides, or skins, or flesh of any kind or description, or any tin cans, bottles, paper, filth, offal, vegetables, or other unsound or offensive matter or thing whatsoever, or any matter or thing which by putrefication or decomposition will produce offensive smells or effluvia, or any other substance of any kind, nature, or description, without first obtaining the consent of the owner or occupant thereof in writing.

Approved March 2, 1963.

CHAPTER 120

S. B. No. 105
(Brooks)

EAVESDROPPING

AN ACT

To amend and reenact section 12-42-05 of the North Dakota Century Code, relating to the offense of eavesdropping, and providing a penalty.

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

§ 1. **Amendment.)** Section 12-42-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-42-05. Eavesdropping — Misdemeanor.) Every person guilty of secretly loitering about any building or using any mechanical or electronic device with intent to overhear or record any discourse or conversation therein and to repeat or publish the same with the intent to vex, annoy, or injure others, is guilty of a misdemeanor.

Approved March 5, 1963.

CHAPTER 121

H. B. No. 742
(Leahy)

REVOCATION OF CIGARETTE LICENSE

AN ACT

To amend and reenact section 12-43-07 of the North Dakota Century Code, relating to revocation of permits of persons authorized to sell various tobacco products.

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

§ 1. **Amendment.)** Section 12-43-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-43-07. Revocation of Permit.) The officer, board, department, commission, or other body having authority to issue a permit to any person authorizing such person to sell cigarettes,

cigarette papers, snuff, cigars, or tobacco in this state shall revoke the permit of any such person who has violated any provision of this chapter, and no such permit shall be issued again to such person for a period of two years thereafter.

Approved March 5, 1963.

CHAPTER 122

H. B. No. 533

(Fitch, Burk, Stockman, Tough, Stallman,)
(Davis of Mercer-Dunn-Oliver)
(From LRC Study)

STATE FARM COMMITMENTS

AN ACT

To amend and reenact sections 12-51-06, 12-51-07, and 12-51-08 of the North Dakota Century Code, relating to the rules and regulations for the control and administration of the state farm, and the commitment and cost of transportation and care of prisoners thereto.

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

§ 1. **Amendment.)** Section 12-51-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-06. Board of Administration to Establish Rules for Control of State Farm and Prisoners Committed Thereto.) The board of administration may establish, adopt, and enforce proper rules and regulations consistent with the provisions of this chapter for the control and administration of the state farm and the prisoners committed thereto.

§ 2. **Amendment.)** Section 12-51-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-07. Prisoners Eligible for Commitment to State Farm — Commitment Thereto Deemed a Conviction of Misdemeanor.) The judges of the district courts, and of the county courts with increased jurisdiction, may commit to the state farm, so far as the capacity of the farm shall permit, all male persons who otherwise would be committed to the county jail or to the penitentiary for violation of any criminal law of this state, where the sentence is not less than thirty days nor more than one year provided that no person shall be committed to the state farm who:

1. Has at any time been convicted of a sexual offense; or
2. Has served a sentence or portion thereof in a penitentiary upon conviction of a felony; or
3. Has a history of moral or sexual degeneration.

A person committed to the state farm shall not be deemed to have been convicted of a felony, but shall be deemed to have been convicted of a misdemeanor.

§ 3. **Amendment.)** Section 12-51-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-08. Cost of Transportation and Care of Persons Committed to State Farm—How Paid—Federal Prisoners.) The cost of transporting persons committed to the state farm shall be paid as the costs of transporting persons committed to the penitentiary are paid. The cost of care and keep of persons who are committed to the state farm for the commission of a crime for which they might have been sentenced to the penitentiary shall be paid by the state out of the funds appropriated for such purpose for persons committed to the penitentiary, or out of the funds appropriated for that purpose. The cost of care and keep of any person committed to said farm for the commission of a crime for which he might have been sentenced to a county jail, but not to the penitentiary, shall be paid by the county from which such person is committed at the rate of three dollars per day per person, except however, when the offense is committed in any county within an area, where there is in process of construction any federal project of such magnitude as to attract to such area a large number of people from outside the locality, then any person convicted of an offense for which he might have been sentenced to a county jail, and who is not, in the opinion of the court, permanently residing in said area, the cost of care and keep shall be paid by the state out of funds appropriated for that purpose. Provided further that whenever the state farm is filled to capacity and there are no longer adequate facilities for additional inmates, the board of administration shall notify the courts of such facts and after such notice no further commitments shall be made to said institution until such facilities have been provided. The board shall have authority to enter into an arrangement or agreement with the proper authorities of the federal government whereby persons convicted of a crime in the federal court of this state may be committed to said farm, but persons convicted in the federal court shall be admissible to the said farm only if the term of the sentence is not less than thirty days nor more than one year.

Approved March 2, 1963.

CHAPTER 123

S. B. No. 112
(Longmire)

CRIME BUREAU TRANSFER

AN ACT

To amend and reenact sections 12-58-01, 12-58-02, 12-58-07, 12-58-08, and 54-12-01 of the North Dakota Century Code, relating to the office of the superintendent of criminal identification and transferring the duties of such office from the warden of the penitentiary to the attorney general.

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

§ 1. Amendment.) Section 12-58-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-01. Superintendent of Criminal Identification—Compensation — Appointment of Assistant Superintendent.) The attorney general shall be the superintendent of criminal identification. He shall serve as such superintendent without any compensation in addition to that received as attorney general. The attorney general may employ an assistant superintendent and such additional personnel as may be necessary to carry out the provisions of this chapter and set their salaries within the limits of legislative appropriations therefor.

§ 2. Amendment.) Section 12-58-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-02. Duties of Superintendent.) It shall be the duty of the superintendent and his assistant:

1. To cooperate with and assist the criminal bureau of the Department of Justice at Washington, D.C. and similar departments in other states in establishing and carrying on a complete system of criminal identification;
2. To cooperate with and assist all judges, state's attorneys, sheriffs, chiefs of police, and all other law enforcement officers of this or any other state and of the federal government in establishing such system of criminal identification;
3. To file for record the fingerprint impressions of every person confined in any penitentiary or jail when such person is suspected of having committed a felony or of being a fugitive from justice, and to file such other

information as they may receive from the law enforcement officers of this or any other state, or from the federal government;

4. To assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime;
5. To cooperate with the state's attorneys, sheriffs, constables, marshals, police, and other peace officers of this state in the apprehension and detention, within or without this state, and conviction, of persons believed to be guilty of committing any felony within this state;
6. To conduct such investigations throughout the state as may be necessary to apprehend and convict persons guilty of committing felonies;
7. To instruct the sheriffs and other law enforcement officers of the state in the taking of fingerprints.

§ 3. Amendment.) Section 12-58-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-07. Superintendent to Make Rules and Regulations.)

The superintendent shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of his duties. Such rules and regulations shall be printed and forwarded to each state's attorney, sheriff, constable, marshal, or other peace officer, and each of said officers shall assist the superintendent in the performance of his duties by complying with such rules and regulations.

§ 4. Amendment.) Section 12-58-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-08. Court to Ascertain Criminal Record of Defendant — Furnish Information of Offense to Superintendent.) The judge of the district court of the county in which a defendant is to be sentenced, or the state's attorney or sheriff thereof, shall ascertain the criminal record of every defendant convicted of a felony before sentence is passed on said defendant. The state's attorneys and sheriffs, upon the request of the superintendent, shall furnish to the superintendent a statement of facts relative to the commission or alleged commission of all felonies within their respective counties upon such blanks or in such form as may be requested by the superintendent.

§ 5. Amendment.) Section 54-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-01. Attorney General—Duties.) The attorney general shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party;
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer;
3. Appear and defend all actions and proceedings against any state officer in his official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the attorney general may determine which officer he will represent and the other officer may employ counsel to represent him;
4. Consult with and advise the several state's attorneys in matters relating to the duties of their office;
5. Attend the trial of any party accused of crime and assist in the prosecution when in his judgment the interests of the state require it;
6. Consult with and advise the governor and all other state officers, and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively;
7. Prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested;
8. Give written opinions, when requested by either branch of the legislative assembly, upon legal questions;
9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds;
10. Prosecute corporations, when necessary, for failure or refusal to make the reports required by law;
11. Keep in proper books a register of all cases prosecuted or defended by him, or his assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to him as provided by law, and deliver the same to his successor in office;
12. Keep in his office a book in which he shall record all the official opinions given by him during his term of office, such book to be delivered by him to his successor in office;
13. Pay into the state treasury all moneys received by him for the use of the state;

14. Serve as superintendent of criminal identification and perform all duties incident to the proper and efficient conduct of that office;
15. Attend to and perform any other duties which from time to time may be required by law.

Approved March 4, 1963.

CHAPTER 124

H. B. No. 534

(Fitch, Burk, Stockman, Tough, Davis (Mercer-Dunn-Oliver),
(Stallman)

(From LRC Study)

STATE PAROLE BOARD

AN ACT

To create a state parole board and to define the powers thereof; to amend and reenact sections 12-30-12, 12-53-04, 12-53-06, 12-53-07, 12-53-08, 12-53-10, 12-53-11, 12-53-12, 12-53-13, 12-53-14, 12-53-15, 12-53-16, 12-55-01, 12-55-02, 12-55-06, 12-55-07, 12-55-10, 12-55-17, 12-55-18, 12-55-19, 12-55-20, 12-55-21, 12-55-22, 12-55-30, and 12-55-32 of the North Dakota Century Code, relating to the powers of the board of pardons in the parole of inmates from the state penitentiary and the supervision of probationers and providing penalties; and to repeal sections 12-53-02, 12-55-08, 12-55-09, 12-55-13, 12-55-14, 12-55-16, 12-55-25, 12-55-26, and 12-55-26.1 of the North Dakota Century Code, relating to the powers of the board of pardons in the parole of inmates from the state penitentiary, and the power of the courts to suspend sentence.

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

§ 1. State Parole Board—Membership.) The state parole board shall consist of three members, who shall be qualified electors of the state, appointed by the governor for terms of three years, arranged so that the term of one member shall expire on December thirty-first of each year. One of the members shall be a person experienced in law enforcement, which may include experience as a prosecuting attorney; one shall be a licensed attorney; and one shall be a person qualified by special experience, education, or training. Members shall be removable by the governor only for disability, inefficiency, neglect of duty, or malfeasance in office.

§ 2. Meetings—Quorum—Compensation.) The board shall organize by selecting a chairman. Meetings of the board shall be held at the state penitentiary on call of the chairman as

often as required to properly conduct the business of the board, but in any event not less than six times per year. Two members shall constitute a quorum, and no action shall be taken without the concurrence of at least two members. Members shall be compensated at the rate of fifteen dollars per day for each day actually and necessarily spent in the performance of their duties as board members plus the same mileage and expenses as are authorized for state officials and employees.

§ 3. Supplies—Regulations Governing Parole.) The board shall provide books of record, application blanks, and such other supplies as are necessary to the performance of its duties. It shall formulate rules and regulations governing the manner in which inmates may become eligible to apply for discharge on parole.

§ 4. Records Privileged—Inspection.) All pre-sentence and pre-parole reports, and the supervision history, obtained in the discharge of official duty by any member or employee of the board, shall be privileged and shall not be disclosed directly or indirectly to anyone other than the board, the judge, committees of the legislative assembly, or others entitled by law to receive such information, except that the board or court may, in its discretion, permit the inspection of the report or parts thereof by the defendant or prisoner or his attorney, or other person having a proper interest therein, whenever the best interest or welfare of a particular defendant or prisoner makes such action desirable or helpful.

§ 5. Consideration by Board—Guarantee.) Within one year after his admission and at such intervals thereafter as it may determine, the board shall consider all pertinent information regarding each prisoner, including the circumstances of his offense, his pre-sentence report, his previous social history and criminal record, his conduct, employment and attitude in prison and the reports of such physical and mental examinations as have been made.

§ 6. General Powers of Board.) The board may issue process requiring the presence of any person or officer before it, with or without books and papers, in any matters pending before said board. If any such person or officer disobeys the order of the board, the chairman, or acting chairman, of such board, may apply to any judge of the district court for an order requiring the attendance of such person or officer, with or without books and papers described in the process. The failure of any such person or officer to comply with such order of the district court shall be held to be a contempt of court and shall be punishable accordingly. Any member of the board, the parole officer, or anyone appointed by the board to secure information for said board, shall have the

power to examine witnesses and records, and to administer oaths to witnesses. Any witness testifying falsely after the oath has been administered to him shall be guilty of perjury and shall be punished accordingly. The board may employ psychiatrists or specialists for mental or medical examination of applicants and may take such reasonable steps as it may deem necessary for proper determination of any matters before it.

§ 7. Requirements Precedent to Parole.) No parole shall be granted to any person confined in the penitentiary unless:

1. He has maintained a good record at the penitentiary for at least six months previous to his application for a parole;
2. Employment has been secured for him with some responsible citizen certified to be such by the judge of the county or district court of the county where such citizen resides or a detainer has been lodged by another authority; and
3. The board is convinced that the applicant will conform to all the rules and regulations adopted by said board.

§ 8. Application for Parole—Hearing—Emergency Paroles.) All applications for parole shall be filed with the clerk of the board. Applications may be heard at any meeting of the parole board. In the event of an emergency application, the ex officio members of the board of pardons, acting as authorized by section 12-55-04, may, in accordance with section 12-55-19, grant such emergency parole. Thereafter the parolee shall be under the supervision and jurisdiction of the parole board.

§ 9. Contents of Application for Parole.) An application for parole shall be in writing, addressed to the board, and shall be signed by the convict or some person in his behalf. It shall state concisely the ground upon which the parole is sought, and in addition shall contain the following facts:

1. The name under which the convict was indicted, informed against, and convicted, and every alias by which he has been known;
2. The date and the terms of the sentence imposed against him and the name of the offense for which it was imposed;
3. The name of the trial judge and the state's attorney who participated at the trial of the convict, together with the name of the county in which he was tried;
4. A concise statement of the evidence adduced at the trial with the endorsement of the trial judge or state's attorney who participated at the trial, that the same is

substantially correct, or if such statement and endorsement are not furnished, the reason therefor shall be stated;

5. If an appeal was taken from the judgment of conviction, the date of the final determination by the supreme court and a transcript of the evidence adduced at the trial shall be furnished;
6. The age, birthplace, parentage, occupation, and the residence during the five years immediately preceding conviction of the convict;
7. A statement of other arrests, indictments, informations, and convictions, if any, against the convict; and
8. Such other information as the board from time to time may require under rules and regulations adopted by it.

§ 10. Notice of Application for Parole—to Whom and by Whom Given—Service.) Notice of an application for a parole and of the time and place of hearing the same shall be given by the clerk of the board to the judge and the state's attorney who participated in the trial of the applicant, and if the judge or state's attorney is no longer in office, notice also shall be given to his successor in office. Such notice shall set forth the name of the person making application, the crime of which he was convicted, the time and place of the conviction, the sentence imposed, the name of the judge who presided over the trial, and the name of the state's attorney who prosecuted the trial of the applicant. Service of such notice shall be made by registered or certified mail.

§ 11. Posting of Notice of Application in Certain Cases.) If the applicant for a parole is serving under a conviction for murder, manslaughter in the first degree, rape by force, kidnapping, or robbery in the first degree, the notice described in section 10 of this Act, in addition to being served as therein specified, shall be posted in a conspicuous place at the front door of the courthouse in the county in which the information was filed or indictment returned for four consecutive weeks prior to the hearing.

§ 12. Board May Reconsider Action.) The board may reconsider its action in granting a parole to any convict at any time before such convict has been released and finally discharged from the penitentiary. Such action may be taken on the board's own motion or on the petition of interested parties.

§ 13. Indeterminate Sentence—Release of Prisoner Serving Under.) No person serving an indeterminate sentence shall be released from the penitentiary merely because the minimum term of his sentence has expired, but his term shall continue until the expiration of the maximum term unless he is

paroled from the institution by the board. The board may determine and fix the date when an inmate imprisoned under an indeterminate sentence may be paroled, after the expiration of the minimum term of his sentence.

§ 14. Psychiatric Evaluation—Transfer to State Hospital.) The parole board may cause any person who has been paroled under the provisions of this chapter to be given psychiatric evaluation or to be transferred to the state hospital for diagnosis and disposition according to such conditions as may be prescribed by the board.

§ 15. Breach of Parole—Order of Recommitment.) Any person shall be deemed to be in the custody and under the control of the board while on parole, and shall be subject, at any time until the expiration of the term for which he was sentenced, to be taken into actual custody and returned to the penitentiary. The board shall enforce the rules and regulations made by it for the paroling of persons committed to the penitentiary. When it shall appear to the board after a full hearing that a person out on parole has violated any of such rules or regulations, it may order that such person be taken into actual custody and recommitted to and confined in the penitentiary as provided in his sentence. The board shall enter any such order in the record of its proceedings. A copy of the order certified by the clerk of the board may be delivered to any sheriff or other peace officer of the state for service and return, and it shall be the duty of any such officer to receive the same, to apprehend and immediately to return any person named in the order, and to deliver him to the warden of the penitentiary. The warden shall receive and re-imprison such person in accordance with the terms of his original sentence.

§ 16. Execution of Order of Recommitment—Fees and Payment Thereof.) The officer executing an order for the recommitment of a prisoner to the penitentiary shall endorse a return of his doings thereon, and shall deliver the execution, a copy of the order of recommitment, and his return to the warden, with the person named therein. The warden shall deliver to such officer a certificate acknowledging the receipt of the person, the certified copy of the order, and the return, and such certificate shall be retained by the officer making the return. The fees of an officer for executing such an order shall be the same as are prescribed for the commitment of a person to the penitentiary under a sentence of the court, but in no case shall such fees exceed the sum of one hundred dollars.

§ 17. Causing Parolee or Probationer to Violate Parole or Probation—Penalty.) Any person knowing that another person is on parole, or on probation under a suspended sentence

or a deferred imposition of sentence, who willfully causes such parolee or probationer to violate the terms or conditions of his parole or probation is guilty of a misdemeanor.

§ 18. Orders Not Reviewable—Exception.) Orders of the board shall not be reviewable except as to compliance with the terms of this chapter or chapter 12-53.

§ 19. Reports of Board and Governor.) At the close of each fiscal year the board shall submit to the governor a report of paroles granted, along with statistical and other data of its work, including research studies which it may make of probation, sentencing, or related functions, and a compilation and analysis of dispositions by criminal courts throughout the state. The governor shall communicate to the legislative assembly at each regular session thereof each case of parole granted by the board, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the parole.

§ 20. Amendment.) Section 12-30-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-30-12. Psychiatric Treatment.) The board of pardons may cause any person convicted under the provisions of this chapter to be given psychiatric treatment or to be transferred to the state hospital for diagnosis and disposition according to such conditions as may be prescribed by the board of pardons.

§ 21. Amendment.) Section 12-53-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-04. Probation and Parole from County Jail.) As a part of an order suspending a sentence to imprisonment in a county jail upon a conviction for a misdemeanor, the court may place the defendant on probation or may order him released on parole, and such order may be made before or after his incarceration pursuant to such sentence.

§ 22. Amendment.) Section 12-53-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-06. When Sentence for Felony Suspended Court Must Place Defendant on Probation.) When a defendant has been found guilty of a felony for which the sentence may be suspended under this chapter, if the facts set forth in section 12-53-01 appear and the court shall suspend the sentence, the order suspending such sentence shall provide that the defendant shall be placed on probation. The effect of the order sus-

pending the sentence and placing the defendant on probation shall be to place said defendant under the control and management of the parole board, and he shall be subject to the same rules and regulations as apply to persons paroled from the penitentiary after a period of imprisonment therein.

§ 23. **Amendment.)** Section 12-53-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-07. Duty of Clerk of Court When Felony Sentence Is Suspended—Release of Defendant—Statistical Data.) Whenever the court shall make its order that the sentence imposed upon a person convicted of a felony shall be suspended and such person placed on probation as provided in this chapter, it shall be the immediate duty of the clerk of the court in which the judgment is entered to make full copies of the judgment of the court with the order for the suspension of the execution of the sentence thereunder and the reasons assigned by the court for such suspension, and to certify the same to the clerk of the parole board and to the warden of the penitentiary. Upon the entry in the records of the court of an order for such suspension and probation, the defendant shall be released from custody as soon as the requirements of the board of pardons have been met properly and fully. It shall also be the duty of the clerk of court, upon the disposition of any criminal case, to transmit to the parole board statistical data, in accordance with regulations issued by the board, regarding all defendants whether found guilty or discharged.

§ 24. **Amendment.)** Section 12-53-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-08. Parole Board to Furnish Parole Forms to Clerk of Court.) The parole board shall furnish blank forms setting forth the requirements and conditions used by it in the parole and probation of prisoners of the penitentiary to the clerk of court of each county for use when the sentence of a person convicted of a felony has been suspended.

§ 25. **Amendment.)** Section 12-53-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-10. Arrest of Person Under Suspended Sentence for Breach of Probation Conditions.) Any person who has been placed upon probation under the provisions of this chapter after having been convicted of a felony and who has violated the conditions of his probation shall be subject to arrest upon the order of the parole board in the same manner as in the

case of an escaped convict. When such person does not conduct himself in accordance with the rules and regulations of the parole board the parole officer or any peace officer designated by the board may arrest such person without a warrant or other process and convey him to the penitentiary. Upon such arrest and detention, the parole officer or peace officer shall immediately notify the court and the parole board and shall submit in writing a report showing in what manner the probationer has violated the conditions of his release.

§ 26. Amendment.) Section 12-53-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-11. Parole Board May Revoke Suspension and Terminate Probation After Hearing.) The parole board, after a full investigation and a personal hearing, may revoke the suspension of the sentence of a person convicted of a felony and placed on probation and may terminate the probation and cause said person to suffer the penalty of the sentence previously imposed upon him, if the board shall determine at such hearing that the probationer has violated any of the rules and regulations prescribed for the conduct of probationers. When the probation has been terminated, the original sentence shall be considered as beginning upon the first day of imprisonment in the penitentiary.

§ 27. Amendment.) Section 12-53-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-12. Release from Probation — Period of Probation.) Whenever it is the judgment of the parole board that a person on probation has satisfactorily met the conditions of his probation, it shall cause to be issued to said person a final discharge from further supervision. The length of the period of probation shall not be less than the minimum term nor more than the maximum term for which he might have been imprisoned, except that in cases where the defendant has been found guilty of abandonment or nonsupport of his wife or children, the period may be continued for as long as responsibility for support continues.

§ 28. Amendment.) Section 12-53-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-13. Imposition of Sentence Suspended—When Authorized.) When a defendant has been found guilty of a crime, whether or not for the first time, the court having jurisdiction thereof, including a county justice, upon application or its own

motion may, in its discretion, suspend the imposing of the sentence and may direct that such suspension continue for a definite period of time, upon such terms and conditions as it may determine. Such period shall not exceed five years, except that in cases where the defendant has been found guilty of abandonment or nonsupport of his wife or children, the period may be continued for as long as responsibility for support continues.

§ 29. Amendment.) Section 12-53-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-14. Defendant Placed Under Control of Parole Board—Sponsor of Defendant.) In the event the court shall suspend the imposition of sentence of a defendant, the court shall place the defendant on probation during the period of suspension. During the period of probation the defendant shall be under the control and management of the parole board, subject to the same rules and regulations as apply to persons placed on probation under suspended sentence as provided in this chapter. The parole board shall assume and undertake the supervision of said probationer, promulgating rules and regulations for the conduct of such person during the period of his probation, except that if the defendant was found guilty of a misdemeanor, the court by order may waive the supervision of the defendant by the parole board, and direct that the defendant shall make his monthly reports to the state's attorney of the county in which the action is pending. The court may designate the clerk of district court, the sheriff, the state's attorney, or any other person to act as sponsor for the defendant. It shall be the duty of the sponsor to assist the probationer in making his monthly reports to the parole board or to the state's attorney, to report any violations, and to counsel and direct said probationer whenever possible.

§ 30. Amendment.) Section 12-53-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-15. When Probation May Be Terminated.) Whenever the parole board, the court, or the state's attorney, shall have reason to believe such defendant is violating the terms of his probation, such probationer shall be brought before the court wherein the probation was granted for a hearing upon the alleged violation. For this purpose any peace officer or state parole officer may re-arrest the probationer without warrant or other process. Costs incurred in bringing the probationer before the court shall be borne by the county wherein the probation was granted. The court may thereupon, in its discretion, without notice revoke and terminate such probation,

pronounce judgment, and deliver defendant to the sheriff to be transferred to the penitentiary or other state institution in accordance with the sentence imposed.

§ 31. Amendment.) Section 12-53-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-16. Probationer Deemed Escapee and Fugitive from Justice—When.) If, after suspension of imposition of sentence, such probationer leaves the jurisdiction prior to the expiration of his probationary period without permission of the court or the parole board, he shall be deemed an escapee and a fugitive from justice.

§ 32. Amendment.) Section 12-55-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-01. Board of Pardons—Membership.) The board of pardons shall consist of the governor, the attorney general, the chief justice of the supreme court, and two qualified electors appointed by the governor, who may also be members of the parole board.

§ 33. Amendment.) Section 12-55-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-02. Compensation of Members of Board of Pardons.) The ex officio members of the board of pardons shall receive no additional compensation for their services upon such board. The two qualified electors appointed on the board by the governor shall receive fifteen dollars for each day necessarily employed in attendance upon the sessions of the board and mileage for each mile actually and necessarily traveled in connection with such duties. Such compensation and mileage shall be paid upon the presentation of the proper voucher containing an itemized statement of the number of days' attendance and the number of miles actually and necessarily traveled in connection with such duties, duly verified by the oath of the member of the board making the claim and approved by the president or secretary of the board. All such claims shall be audited and separate warrants shall be drawn upon the state treasurer for the amount allowed to be paid out of the state treasury.

§ 34. Amendment.) Section 12-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-06. Clerk of Board—Appointment—Duties—Record of Board's Actions.) The three ex officio members of the

board of pardons and the parole board shall jointly appoint a clerk for the board, who shall also serve as clerk for the parole board, whose duties shall be:

1. To keep a docket of all applications filed with the board of pardons or the parole board and of all action taken thereon;
2. To keep a record of every petition for a pardon, parole, reprieve, or commutation of sentence received by each board, and of every letter or paper filed or appearance made in connection therewith;
3. To keep a record of every pardon, parole, reprieve, or commutation of sentence granted or refused and of the reasons assigned for each such action;
4. To maintain a complete and accurate filing system of all proceedings before each board;
5. To keep and preserve in his office all the files and records of each board and perform such duties in relation thereto as each board shall prescribe; and
6. To perform such other duties as each board may assign to him.

§ 35. Amendment.) Section 12-55-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-07. Parole Officers—Appointment—Duties.) The ex officio members of the board of pardons shall appoint one or more parole officers, one of whom may be the clerk of the board of pardons and of the parole board, whose duties shall be:

1. To have supervision over and to look after the welfare of persons who have been paroled from the penitentiary and of persons who have received suspended sentences and have been placed upon probation after having been convicted of a felony;
2. To keep a complete record of all persons under their supervision and to make such reports relating to such persons as the board of pardons or the parole board shall require;
3. To make such investigations and perform such other duties in connection with applications and petitions for pardon, commutation of sentence, or parole as may be prescribed by the board of pardons or the parole board; or
4. To perform such other duties as the board of pardons or the parole board may assign to them.

§ 36. Amendment. Section 12-55-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-10. General Powers of Board of Pardons.) The board of pardons may issue process requiring the presence of any person or officer before it, with or without books and papers, in any matters pending before said board. If any such person or officer disobeys the order of the board, the chairman, or acting chairman, of such board, may apply to any judge of the district court for an order requiring the attendance of such person or officer, with or without books and papers described in the process. The failure of any such person or officer to comply with such order of the district court shall be held to be a contempt of court and shall be punishable accordingly. Any member of the board of pardons, the parole officer, or anyone appointed by the board to secure information for said board, shall have the power to examine witnesses and records, and to administer oaths to witnesses. Any witness testifying falsely after the oath has been administered to him shall be guilty of perjury and shall be punished accordingly. It may employ psychiatrists or specialists for mental or medical examination of applicants before the board, and may take such reasonable steps as it may deem necessary for proper determination of any matters before it.

§ 37. Amendment.) Section 12-55-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-17. Application for Pardon, Reprieve, or Commutation of Sentence—When and Where Filed.) All applications for pardon, reprieve, or commutation of sentence shall be filed with the clerk of the board of pardons. All applications for pardon must be filed at least six weeks before the meeting of the board at which the hearing is sought.

§ 38. Amendment.) Section 12-55-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-18. Contents of Application for Clemency.) An application for a pardon, reprieve, or commutation of sentence shall be in writing, addressed to the board of pardons, and shall be signed by the convict or some person in his behalf. It shall state concisely the ground upon which the pardon, reprieve, or commutation is sought, and in addition shall contain the following facts:

1. The name under which the convict was indicted, informed against, and convicted, and every alias by which he has been known;
2. The date and the terms of the sentence imposed against him and the name of the offense for which it was imposed;

3. The name of the trial judge and the state's attorney who participated at the trial of the convict, together with the name of the county in which he was tried;
4. A concise statement of the evidence adduced at the trial with the endorsement of the trial judge or state's attorney who participated at the trial, that the same is substantially correct, or if such statement and endorsement are not furnished, the reason therefor shall be stated;
5. If an appeal was taken from the judgment of conviction, the date of the final determination by the supreme court and a transcript of the evidence adduced at the trial shall be furnished;
6. The age, birthplace, parentage, occupation, and the residence during the five years immediately preceding conviction of the convict;
7. A statement of other arrests, indictments, informations, and convictions, if any, against the convict; and
8. Such other information as the board of pardons from time to time may require under rules and regulations adopted by it.

§ 39. **Amendment.)** Section 12-55-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-19. Hearing on Application for Pardon, Emergency Parole, or Commutation.) Applications for pardon, except in cases of extreme emergency, shall be heard only at the three regular meetings of the board of pardons. Applications for pardon, commutation, or emergency parole may be heard at a special meeting called in case of an emergency, but no such application shall be heard unless there is filed a written statement signed by the applicant or someone in his behalf, setting forth the facts as to the emergency. The board first shall determine whether an emergency does in fact exist, and if it finds that there is no emergency, no further action shall be taken. If the board finds that there is an emergency, a hearing may be had upon such notice to the judge and the state's attorney who participated in the trial as the board may deem sufficient.

§ 40. **Amendment.)** Section 12-55-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-20. Notice of Application for Clemency—to Whom and by Whom Given—Service.) Notice of an application for a pardon, reprieve, or commutation of sentence, and of the time and place of hearing the same, shall be given by the clerk of the board of pardons to the judge and the state's

attorney who participated in the trial of the applicant, and if the judge or state's attorney is no longer in office, notice also shall be given to his successor in office. Such notice shall set forth the name of the person making application for clemency, the crime of which he was convicted, the time and place of the conviction, the sentence imposed, the name of the judge who presided over the trial, and the name of the state's attorney who prosecuted the trial of the applicant. Service of such notice shall be made by registered or certified mail.

§ 41. Amendment.) Section 12-55-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-21. Posting of Notice of Application in Certain Cases.)

If the applicant for a pardon, reprieve, or commutation of sentence is serving under a conviction for murder, manslaughter in the first degree, rape by force, kidnaping, or robbery in the first degree, the notice described in section 12-55-20, in addition to being served as therein specified, shall be posted in a conspicuous place at the front door of the courthouse in the county in which the information was filed or indictment returned for four consecutive weeks prior to the hearing. Proof of the posting of such notice shall be filed with the clerk of the board before the hearing.

§ 42. Amendment.) Section 12-55-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-22. Board May Reconsider Action.) The board of pardons may reconsider its action in granting a pardon to any convict at any time before such convict has been released and finally discharged from the penitentiary. Such action may be taken on the board's own motion or on the petition of interested parties.

§ 43. Amendment.) Section 12-55-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-30. Official Statements of Judge and State's Attorney—Contents.) The judge before whom any person has been convicted of a felony and the state's attorney of the county in which the crime was committed shall file separate official statements with the clerk of court having the records in the case showing:

1. The facts and circumstances constituting and surrounding the crime of which the prisoner was convicted;
2. The age of the prisoner as nearly as can be ascertained;

3. All information accessible in regard to the career of the prisoner prior to the time of the commission of the crime of which he was convicted;
4. All available information in regard to the prisoner's habits, associates, disposition, and reputation;
5. All other facts and circumstances which may indicate whether or not the prisoner is capable of becoming a law abiding citizen; and
6. The reasons of the state's attorney for recommending the sentence recommended and the reasons of the court for imposing the particular sentence imposed, whether the sentence be indeterminate or for a fixed term.

The judge and the state's attorney, or either of them, may make any recommendations or suggestions pertaining to the prisoner which may be of assistance to the board of pardons or the parole board in considering the prisoner's case.

§ 44. **Amendment.**) Section 12-55-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-32. Governor to Report Reprieves, Remissions, Commutations, and Pardons to Legislative Assembly.) The governor shall communicate to the legislative assembly at each regular session thereof each case of remission of fine, reprieve, commutation, or pardon granted by the board of pardons, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the remission, commutation, pardon, or reprieve.

§ 45. **Repeal.**) Sections 12-53-02, 12-55-08, 12-55-09, 12-55-13, 12-55-14, 12-55-16, 12-55-25, 12-55-26, and 12-55-26.1 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1963.