

CORRECTIONS, PAROLE, AND PROBATION

CHAPTER 168

SENATE BILL NO. 2407
(Wenstrom)

JUVENILE DETENTION CONTRACTS

AN ACT to amend and reenact section 12-44.1-02 of the North Dakota Century Code, relating to jail contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44.1-02. Establishing jails - Jail contracts - Regional corrections centers. For the confinement of lawfully committed persons, the governing body of a county or city shall do or shall participate in the doing of, one of the following:

1. Establishing and maintaining a jail at county or city expense.
2. Contracting for jail services and use of jail facilities with another county or city maintaining a jail, with a regional corrections center, or with the state or federal government.
3. Establishing and maintaining, pursuant to chapter 54-40 and this chapter, a regional corrections center in conjunction with other counties and cities.

A county or city may additionally contract with a county or city of another state for the confinement of lawfully committed county or city inmates from that state in a North Dakota jail or juvenile detention center, or for the confinement of lawfully committed North Dakota inmates in a county or city facility of such other state. A city or county may contract for juvenile detention services with a privately operated juvenile detention center. Contracts with private agencies providing juvenile detention services may be entered into for up to seven years.

Approved March 22, 1985

CHAPTER 169

HOUSE BILL NO. 1370
(Wald)

JAIL INMATE HOUSING

AN ACT to amend and reenact sections 12-44.1-09 and 12-44.1-10 of the North Dakota Century Code, relating to housing of and restrictions on inmates of jails; and to repeal subsection 4 of section 12-44.1-08 and section 32-22-39 of the North Dakota Century Code, relating to employment of additional jailers for federal prisoners and to liability of jailers for failing to provide to a prisoner a copy of the commitment order.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44.1-09. Housing of inmates. In grade one and grade two jails, and, where practicable, in grade three jails, the following groups of inmates shall must be housed separately from each other:

1. Female inmates from male inmates.
2. Juveniles from adults.
3. Persons detained for hearing or trial from inmates under sentence of imprisonment, unless authorized to be housed together by the jail administrator for security, order, or rehabilitation.
4. Persons detained for hearing or trial or under sentence of imprisonment from detained witnesses and other persons detained under civil commitment, unless authorized to be housed together by the jail administrator for security, order, or rehabilitation.
5. Mentally disturbed inmates and other inmates with special needs as determined by the jail administrator from the remainder of the jail population, unless authorized to be housed together by the jail administrator for security, order, or rehabilitation.

6. Special management inmates whose behavior presents a serious threat to the safety and security of the jail, the inmate, the staff, or the general inmate population from the remainder of the jail population.

SECTION 2. AMENDMENT. Section 12-44.1-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44.1-10. **Detained witnesses and pretrial detainees.** Detained witnesses and persons held in custody awaiting arraignment or trial shall not be restricted in their activities to any extent greater than required to maintain order and security and to assure their appearance at the arraignment or trial for which they are held, nor shall they be confined in any room or cell area where convicted offenders are actually imprisoned. Witnesses and pretrial detainees shall not be required to do labor other than keeping their living areas clean nor shall they be required to participate in jail programs.

SECTION 3. REPEAL. Section 32-22-39 of the North Dakota Century Code and subsection 4 of section 12-44.1-08 of the 1983 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 22, 1985

CHAPTER 170

SENATE BILL NO. 2329
(Senator Lodoen)
(Representative Hughes)

JAIL INMATE WORK RELEASE

AN ACT to create and enact a new section to chapter 12-44.1 and a new chapter to title 65 of the North Dakota Century Code, relating to an inmate work release program for city and county jails and workmen's compensation coverage for participating inmates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12-44.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Inmate work release program. The governing body of a city or county, with the concurrence of affected parties, may provide for a work release program for inmates confined in a city or county penal institution. Work projects may include public service and community projects, and may utilize any particular skill or trade of participating inmates. At the discretion of the judge with jurisdiction over a participating inmate, for every eight hours of work by a participating inmate, the inmate's period of confinement shall be reduced by two days. The governing body shall take measures to maintain jail security among participating inmates.

SECTION 2. A new chapter to title 65 of the North Dakota Century Code is hereby created and enacted to read as follows:

Inmate defined. For the purposes of this chapter, an inmate is a person who is confined against the inmate's will in a city or county penal institution or is a person who, as a criminal defendant before a court, is ordered or elects to perform public service for a city or county in conjunction with or in lieu of a jail sentence. The term inmate shall not include an individual injured in a fight, riot, recreational activity, or other incident not directly related to the inmate's work assignment.

Coverage of inmates - Conditions.

1. If an inmate in performance of work in connection with the maintenance of the institution, or with any industry maintained therein, or with any public service activity, sustains a compensable injury, the inmate may, upon being released from the institution, or after discharge from public service, be awarded and paid compensation under the provision of this title.
2. Claims under this chapter shall be filed and processed pursuant to section 65-05-01, except that an inmate shall also have one year from the date of first release from the institution or discharge from public service to file a claim.
3. Workmen's compensation benefits under this chapter accrue and are payable from the time of the inmate's release from the institution or after discharge from public service. Disability benefits shall be computed according to the methods provided in chapter 65-05. The inmate's weekly wage shall be computed using either the actual wage paid to the inmate or the federal minimum wage as of the date of injury, whichever is higher.
4. If a former inmate receiving disability benefits under the provisions of this chapter is recommitted or sentenced by a court to imprisonment in a penal institution, the disability benefits shall be suspended or paid during any confinement exceeding thirty consecutive days in the following manner:
 - a. If the employee has no spouse or child, any right to claim disability benefits under this title during imprisonment shall cease and the term of confinement shall be deducted from the period for which disability benefits are payable to the employee.
 - b. If the employee has a spouse or child, payment of disability benefits during the employee's imprisonment shall be paid to the spouse or child of the employee in the manner and in the amount provided in subsection 1 of section 65-05-17.

Workmen's compensation coverage of inmates. Any county or city may, by resolution of the governing body, elect to cover its inmates with workmen's compensation benefits in accordance with the provisions of this chapter. Any county or city which makes this election shall not be liable to respond in damages at common law or by statute for injuries to or the death of any inmate whenever the provisions of this chapter have been met and the premiums as set by the bureau are not in default.

Approved March 27, 1985

CHAPTER 171

SENATE BILL NO. 2220
(Committee on State and Federal Government)
(At the request of the Director of Institutions)

PENITENTIARY INMATE ACCOUNTS

AN ACT to amend and reenact section 12-48-15 of the North Dakota Century Code, relating to penitentiary inmate accounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-48-15 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Fifty percent of the earnings of ~~each inmate~~ inmates shall be deposited to the credit of ~~his~~ their account until ~~he has~~ they have accumulated in that account ~~the sum of one hundred dollars~~ a sum of money as provided by penitentiary rules and regulations from his their earnings at the penitentiary, or such portion thereof as ~~he has~~ they have earned at the time of ~~his~~ their release their discharge. All moneys in the inmate's account shall be paid to ~~him~~ the inmate in full at the time of ~~his~~ their release when discharged.
2. ~~The inmate~~ Inmates may, in writing, authorize the warden or ~~his~~ his designee to deposit any of ~~his~~ their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account shall be a two signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. Other inmate income or funds from sources outside of the penitentiary may be directly deposited or invested by the inmate in any bank or other organization, unless

sentencing stipulations, court orders, the inmate's competency, or other interests of the inmate require that the warden deposit such income or funds or a portion thereof in the above-noted Bank of North Dakota account for the inmate's benefit and protection. Before making such a deposit of funds or income from sources outside of the penitentiary for the inmate's benefit and protection, the warden must receive the approval of the director of institutions and provide a written letter of explanation to the inmate. Funds directly invested or deposited by an inmate inmates into his their independent account accounts, even when assisted in doing so by an officer or employee of the penitentiary, shall in no way make the penitentiary or its officers or employees responsible or accountable for such inmate's investments and deposits.

4. The warden, through his staff, is responsible for guiding the inmate inmates in making proper use of his their funds to pay his their obligations, and, if possible, to provide for his their dependent relatives, or to provide himself with for themselves medical, surgical, or dental treatment or services not generally provided by the state. The one hundred dollar portion of sum of money as provided by penitentiary rules and regulations from each inmate's earnings required to be deposited and accumulated by this section shall not be available to the inmate until his release discharge. The remainder of the inmate's earnings, including interest earned, shall be available to the inmate under the supervision and control of the warden and his designees or designee.

Approved March 22, 1985

CHAPTER 172

SENATE BILL NO. 2099
(Olson)

FAILURE TO APPEAR FOR PAROLE MEETING

AN ACT to amend and reenact section 12-59-15 of the North Dakota Century Code, relating to violations of parole agreements and redetermining the period remaining in supervision.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-59-15 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-59-15. Breach of parole - Hearings - Order of recommitment.

1. When it is alleged that a parolee has violated the conditions of the parole agreement, the chief parole officer may issue a warrant for the arrest of the parolee.
2. If an alleged violation is for failing to appear for any meeting required by the parolee's supervisory officer without just cause or for leaving the jurisdiction without permission, the parole board may suspend the running of the time period of parole until the parolee is in the custody of any law enforcement personnel in the state.
3. The parolee shall be entitled to a preliminary hearing, as promptly as is convenient after the arrest and reasonably near the place of the alleged violation or arrest, to determine whether there is probable cause or reasonable grounds to believe that the parolee violated the conditions of the parole agreement.
- 3- 4. The preliminary hearing shall be conducted before the chief parole officer or any other independent hearing officer authorized by the chief parole officer, but in no case shall it be conducted before anyone directly involved in the case.

5. If at the preliminary hearing the hearing officer determines that the parolee violated the conditions of the parole agreement by failing to appear for any meeting required by the parolee's supervisory officer without just cause or by leaving the jurisdiction without permission, the board may redetermine the time remaining in the period of parole to reflect any portion of the period during which the parolee was not under supervision or not in the custody of law enforcement personnel in the state.
- ~~4-~~ 6. If the hearing officer determines there is probable cause, the parolee shall be returned to the penitentiary or state farm, transferred to a county jail or the state hospital, or released from actual custody on the terms of the parole agreement, pending a final revocation hearing before the parole board. If the board determines, at the final revocation hearing, that the parolee has violated the conditions of the parole agreement, it may order that the parolee be recommitted to the penitentiary or state farm as provided in his sentence.
- ~~5-~~ 7. At any hearing pursuant to this section a record shall be made, and the parolee shall have:
- a. Written notice of the purpose of the hearing and the alleged violations.
 - b. The opportunity to be heard in person and present witnesses and documentary evidence.
 - c. The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that such confrontation would create a risk of harm to the witness.
 - d. A written statement as to the reasons for the decision.

Approved March 22, 1985