

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 390

SENATE BILL NO. 2527
(Maxson)

SEX OFFENSE LIMITATION PERIODS

AN ACT to amend and reenact sections 29-04-02, 29-04-03, and 29-04-03.1 of the North Dakota Century Code, relating to prosecution of certain sexual offenses if the victim is under eighteen years of age.

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

SECTION 1. AMENDMENT. Section 29-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-04-02. Prosecution for felony other than murder within three years. ~~An information Except as otherwise provided by law, a prosecution for any felony other than murder must be filed, or an indictment must be found, commenced within three years after its commission. Nothing in this section contained shall be construed to bar or prevent prevents a person prosecuted for murder from being found guilty of manslaughter any included offense and punished accordingly.~~

SECTION 2. AMENDMENT. Section 29-04-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-04-03. Prosecution for misdemeanor or infraction within two years. ~~An information, or a complaint, for A prosecution of a misdemeanor or infraction, except as otherwise specifically limited provided by law, must be filed, or an indictment found, commenced within two years after its commission.~~

SECTION 3. AMENDMENT. Section 29-04-03.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-04-03.1. Prosecution for ~~child sexual abuse of minors to be commenced within seven years. An information, indictment, or complaint A prosecution for violation of sections 12.1-20-03 through 12.1-20-08, and or of section 12.1-20-11, where the victim and the~~

actor were in a familial relationship was under eighteen years of age at the time the offense was committed, shall be found, made, or filed must be commenced in the proper court within seven years after the commission of the offense.

"Familial relationship", for purposes of this section, means a situation in which the actor is any of the following:

- 1- The complainant's parent, stepparent, or guardian.
- 2- Nearer of kin to the complainant than first cousin, computed by rules of the civil law, whether of the half or the whole blood.
- 3- The brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great grandparent, great uncle, or great aunt of the complainant, by marriage or adoption.
- 4- An adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

Approved April 7, 1987

Filed April 9, 1987

CHAPTER 391

SENATE BILL NO. 2231
(Committee on Judiciary)
(At the request of the Attorney General)

CHILD VICTIM SEX OFFENSE LIMITATIONS

AN ACT to create and enact a new section to chapter 29-04 of the North Dakota Century Code, relating to the tolling of the statute of limitations as to a child victim.

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

SECTION 1. A new section to chapter 29-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Statute of limitations as to child victim. If the victim of a violation of chapter 12.1-20 is under the age of fifteen, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of fifteen.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 392

SENATE BILL NO. 2493
(Senator Olson)
(Representative Rydell)

INDIGENT DEFENSE COSTS

AN ACT to amend and reenact section 29-07-01.1 of the North Dakota Century Code, relating to recoupment of expenses for defense of indigent defendants.

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

* SECTION 1. AMENDMENT. Section 29-07-01.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-07-01.1. Payment of expenses for defense of indigents. Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, and by the state if the action is prosecuted in district court. The state shall also pay the defense expenses in any felony action prosecuted in county court pursuant to subsection 7 of section 27-07.1-17. A defendant with appointed counsel shall ~~pay to reimburse~~ the county or state such sums as the ~~court shall direct~~ county or state expends on the defendant's behalf, unless otherwise ordered by the court. The state's attorney of the county wherein the action was prosecuted shall seek civil recovery of any such sums any time he the state's attorney determines the person for whom counsel was appointed may have funds to repay the county or state within six years of the date such amount was paid on his the person's behalf. The state's attorney may contract with a private sector collection agency for assistance in seeking recovery of such funds.

Approved March 20, 1987
Filed March 23, 1987

* NOTE: Section 29-07-01.1 was also amended by section 14 of House Bill No. 1050, chapter 73, by section 2 of Senate Bill No. 2040, chapter 375, and by section 1 of Senate Bill No. 2105, chapter 393.

CHAPTER 393

SENATE BILL NO. 2105
(Committee on Judiciary)
(At the request of the Supreme Court)

INDIGENT DEFENSE EXPENSES

AN ACT to amend and reenact sections 29-07-01.1, 31-01-18, 31-01-19, and 40-18-19 of the North Dakota Century Code, relating to the payment of indigent defense expenditures and witness fees and expenses in criminal cases.

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

* SECTION 1. AMENDMENT. Section 29-07-01.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-07-01.1. Payment of expenses for defense of indigents. Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, and by the state if the action is prosecuted in district court, and by the city wherein the alleged offense took place if the action is prosecuted in municipal court. The state shall also pay the defense expenses in any felony action prosecuted in county court pursuant to subsection 7 6 of section 27-07.1-17. The city shall also pay the expenses in any appeal taken to district court or county court from a judgment of conviction in municipal court pursuant to section 40-18-19. A defendant with appointed counsel shall pay to the county or, state, or city such sums as the court shall direct. The state's attorney of the county or prosecuting attorney of the city wherein the action was prosecuted alleged offense took place shall seek recovery of any such sums any time he the state's attorney or city attorney determines the person for whom counsel was appointed may have funds to repay the county or, state, or city within six years of the date such amount was paid on his the defendant's behalf.

SECTION 2. AMENDMENT. Section 31-01-18 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 29-07-01.1 was also amended by section 14 of House Bill No. 1050, chapter 73, by section 2 of Senate Bill No. 2040, chapter 375, and by section 1 of Senate Bill No. 2493, chapter 392.

31-01-18. Expenses of witness paid by city, county, or state upon court order in criminal or municipal court action. When a person, as a witness in a criminal or municipal court action, attends appears before a magistrate, grand jury, or court, upon a subpoena or in pursuance of an undertaking and it appears that he:

1. Has come from a place outside the county; or
2. Is poor and unable to pay the expenses of such attendance,

the court, if the attendance of the witness is upon a trial, by order upon its minutes, or in any other case, the judge, by a written order, may direct the state in district court cases, the county treasurer in county court cases, or the city in municipal court cases to pay the witness a reasonable sum to be specified in the order for the necessary expenses of his the witness's attendance. Upon the production of the order or a certified copy thereof, the state, county treasurer, or city, to whichever entity the order is directed, must pay the witness the sum specified ~~therein out of the county treasury.~~ Where the order is issued by the district court the witness shall be paid by the state.

SECTION 3. AMENDMENT. Section 31-01-19 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-19. Witness for indigent defendants subpoenaed and paid by city, county, or state under court order in criminal or municipal court action. If it appears to the court before which a criminal action or municipal ordinance violation is about to be tried that the defendant is unable to pay the witnesses in his to appear on the defendant's behalf, such court shall make an order, ~~to be entered in the minutes,~~ that such witnesses as may be deemed reasonable, naming them, be subpoenaed to attend at such trial at the expense of the city, the county, or the state, whichever is liable to pay the costs of the prosecution of such action, and such witnesses shall be paid accordingly.

* SECTION 4. AMENDMENT. Section 40-18-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-19. Appeals from determinations of municipal judge. An appeal may be taken to the district court or the county court from a judgment of conviction in a municipal court in accordance with the North Dakota Rules of Criminal Procedure. An appeal shall be perfected by notice of appeal. No appeal, bail, or supersedeas bond may be required on an appeal from a determination in a municipal judge's court. An appeal to the district court or county court, when perfected, transfers the action to such court for trial anew. That trial shall be conducted in accordance with procedures provided by rules promulgated by the supreme court. On all appeals from a determination in a municipal court, the appellate court shall take judicial notice of all of the ordinances of the city. No filing fee shall be required for the filing of an appeal from a judgment of

* NOTE: Section 40-18-19 was also amended by section 12 of Senate Bill No. 2040, chapter 375.

conviction for the violation of a municipal ordinance. Expenses necessary for the adequate defense of a needy person in an appeal to district or county court from a judgment of conviction for the violation of a municipal ordinance, as approved by the presiding district or county judge, must be paid by the city wherein the alleged offense took place.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 394

SENATE BILL NO. 2458
(Senators Stenehjem, Maxson, Peterson)
(Representatives Cleveland, Laughlin)

COURT COSTS

AN ACT to amend and reenact section 29-26-22 of the North Dakota Century Code, relating to court costs.

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

* SECTION 1. AMENDMENT. Section 29-26-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-26-22. Judgment for fines and, costs, and court administration fee - Statement to be filed by court - Docketing and enforcement. In all cases of conviction, the costs of the prosecution a court administration fee of up to twenty-five percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed. Costs shall not include any apportionment of salaries of judicial or law enforcement officers, nor shall any apportionment of maintenance costs, utility expenses, or amortization of capital expenditures be included in any assessment of costs. When a fine is imposed and suspended or the imposition of a sentence is suspended pursuant to chapter 12-53, the court administration fee may be taxed against the defendant and twenty-five percent of the fee collected must be added to the fund for the maintenance of common schools pursuant to section 2 of article IX of the Constitution of North Dakota. A judgment that the defendant pay a fine and, costs, or court administration fee, or either any combination thereof, must may be docketed, and thereafter constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action.

Approved April 1, 1987
Filed April 2, 1987

* NOTE: Section 29-26-22 was also amended by section 5 of Senate Bill No. 2302, chapter 385.

CHAPTER 395

SENATE BILL NO. 2230
(Committee on Judiciary)
(At the request of the Attorney General)

EXTRADITION INQUIRIES AND EXPENSES

AN ACT to create and enact two new sections to chapter 29-30.3 of the North Dakota Century Code, relating to inquiry into the guilt or innocence of an accused upon extradition and to the payment of expenses of an extradition.

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

SECTION 1. A new section to chapter 29-30.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

Guilt or innocence of accused - When inquiry made. The guilt or innocence of the accused as to the crime with which the person is charged may not be inquired into by the governor or in any proceeding after a demand for extradition has been presented to the governor or a demand for rendition has been filed with the attorney general, except as it may be involved in identifying the person held as the person charged with the crime.

SECTION 2. A new section to chapter 29-30.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

Payment of expenses. When the charged offense is a felony, the expenses of returning the demanded person to this state must be paid out of the state treasury, on the certificate of the governor and warrant of the county auditor; and in all other cases they must be paid out of the county treasury in the county in which the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state under sections 44-08-04 and 54-06-09.

Approved April 14, 1987
Filed April 15, 1987