

# JUDICIAL PROOF

## CHAPTER 335

SENATE BILL NO. 2081  
(Judiciary Committee)  
(At the request of the Supreme Court)

### WITNESS FEE AND EXPENSE PAYMENT

AN ACT to amend and reenact section 31-01-16 of the North Dakota Century Code, relating to witness fees and expenses; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 31-01-16 of the 1989 Supplement to the North Dakota Century Code, as amended by section 130 of chapter 326 of the 1991 Session Laws of North Dakota, is amended and reenacted as follows:

**31-01-16. Compensation and mileage and travel expense of witness** ~~County to pay fees except for district court fees in criminal action.~~ A witness in a civil or criminal case is entitled to receive:

1. A sum of twenty-five dollars for each day necessarily in attendance before the district court or before any other board or tribunal, except municipal court.
2. A sum for mileage and travel expense reimbursement equal to the reimbursement rates provided for state employees in sections 44-08-04 and 54-06-09.

~~In all criminal cases, witness fees and expenses on the part of the state must be paid out of the county treasury of the proper county except that in district court cases, the attorney general shall pay prosecution witness fees and expenses, and the supreme court shall pay other witness fees for indigents and expenses. Prisoners may not be compensated as witnesses under this section.~~

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 2, 1995.

Approved March 15, 1993  
Filed March 16, 1993

## CHAPTER 336

SENATE BILL NO. 2126  
(Judiciary Committee)  
(At the request of the Attorney General)

### CHILD VICTIM EVIDENCE

AN ACT to amend and reenact subsection 1 of section 31-04-04.1 of the North Dakota Century Code, providing for the admission as evidence of the videotaped statement of the child victim of certain sexual offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 1 of section 31-04-04.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. In any prosecution for a violation of section 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, or 12.1-20-11 in which the victim is less than fifteen years of age, the oral statement of the child victim may be recorded before trial and, subject to subsection 2, is admissible as evidence in any court proceeding regarding the offense if the following conditions are satisfied:
  - a. The court determines there is reasonable cause to believe that the child victim would experience serious emotional trauma as a result of in-court participation in the proceeding;
  - b. The accused must be given reasonable written notice of the time and place for taking the videotaped statement;
  - ~~b-~~ c. The accused must be afforded the opportunity to hear and view the testimony from outside the presence of the child by means of a two-way mirror or other similar method that will ensure that the child cannot hear or see the accused;
  - ~~e-~~ d. The accused must have the opportunity to communicate orally with counsel by electronic means while the videotaped statement is being made; and
  - ~~d-~~ e. All questioning must be done by ~~attorneys for the prosecution and the defense; however, upon~~ the prosecutor or counsel for the defendant unless the defendant is an attorney pro se. An attorney pro se must conduct all questioning from outside the presence of the child. Upon request of any of the parties or upon the determination of the court that it would be appropriate, the court may appoint a person who is qualified as an expert and who has dealt with the child in a therapeutic setting to aid the court throughout proceedings conducted under this section and the court may appoint a guardian ad litem to protect the interests of the child.

Approved March 4, 1993  
Filed March 5, 1993

## CHAPTER 337

HOUSE BILL NO. 1394  
(Representative Rydell)

### **MEDICAL RECORDS**

AN ACT relating to authentication of medical records by electronic signature and to the recording of medical records.

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

**SECTION 1. Medical records authentication.** If appropriate safeguards have been taken to limit access to medical records in an electronic data storage system, a medical record in an electronic data storage system may be authenticated by an electronic signature or a computer-generated signature code.

**SECTION 2. Medical records recording.** The recording of hospital medical records by an electronic image system or reproduction process is considered a photographic process. The making or recording of hospital medical records by electronic data processing systems is considered an original written record, and printout or other types of retrieved information in written or printed form must be treated as original records in all courts or administrative agencies for the purpose of its admissibility into evidence.

Approved April 9, 1993

Filed April 9, 1993