JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 236

HOUSE BILL NO. 1329

(Representatives Dahl, R. Kelsch, Mock)
(Senators Miller, Sitte, Warner)

AN ACT to amend and reenact sections 29-04-02 and 29-04-03 of the North Dakota Century Code, relating to statute of limitations in possession of stolen property or services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

29-04-02. Prosecution for felony other than murder within three years.

Except as otherwise provided by law, a prosecution for any felony other than murder must be commenced within three years after its commission. Prosecution of felony offenses under chapter 12.1-23 must be commenced within the later of three years of commission of the last act that is an element of the offense, three years of discovery of the stolen property, or three years of discovery of the loss of the property or services. Nothing in this section prevents a person prosecuted for murder from being found guilty of any included offense and punished accordingly.

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

29-04-03. Prosecution for misdemeanor or infraction within two years.

A prosecution of a misdemeanor or infraction, except as otherwise provided by law, must be commenced within two years after its commission. Prosecution of misdemeanor offenses under chapter 12.1-23 must be commenced within the later of two years of commission of the last act that is an element of the offense, two years of discovery of the stolen property, or two years of discovery of the loss of the property or services.

Approved April 19, 2011
Filed April 20, 2011

CHAPTER 237

HOUSE BILL NO. 1192

(Representatives Dahl, Karls, Sanford, S. Meyer)

AN ACT to amend and reenact section 29-04-05 of the North Dakota Century Code, relating to the commencement of a criminal prosecution; and to repeal sections 29-09-02, 29-09-06, and 29-09-07 of the North Dakota Century Code, relating to criminal procedure and the methods of prosecution.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-04-05 of the North Dakota Century Code is amended and reenacted as follows:

29-04-05. When ~~action~~prosecution is commenced.

~~An information is filed or an indictment found within the meaning of this chapter when it is presented, if an information, by the state's attorney or person appointed to prosecute, or, if an indictment, by the grand jury, in open court, and there received and filed, or if a complaint, when filed by a magistrate having jurisdiction to hear, try, and determine the action.~~A prosecution is commenced when a uniform complaint and summons, a complaint, or an information is filed or when a grand jury indictment is returned.

SECTION 2. REPEAL. Sections 29-09-02, 29-09-06, and 29-09-07 of the North Dakota Century Code are repealed.

Approved March 29, 2011
Filed March 29, 2011

CHAPTER 238

SENATE BILL NO. 2285

(Senators Nething, Lyson, Robinson)
(Representatives Dahl, Delmore, Skarphol)

AN ACT to create and enact a new subsection to section 29-06-15 of the North Dakota Century Code, relating to arrests without a warrant; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 29-06-15 of the North Dakota Century Code is created and enacted as follows:

> If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 26, 2011
Filed April 26, 2011

CHAPTER 239

HOUSE BILL NO. 1065

(Representative DeKrey)
(At the request of the Commission on Legal Counsel for Indigents)

AN ACT to amend and reenact subsection 1 of section 29-07-01.1 of the North Dakota Century Code, relating to payment of and reimbursement for indigent defense attorney's fees and expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 29-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Lawyers provided to represent indigent persons must be compensated at a reasonable rate to be determined by the commission on legal counsel for indigents. Expenses necessary for the adequate defense of an indigent person prosecuted in district court, other than for a violation of a home rule county's ordinance, when approved by the commission, must be paid by the state. Expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county's ordinance must be paid by the home rule county. Expenses necessary for the adequate defense of an indigent person prosecuted in municipal court, when approved by the judge, must be paid by the city in which the alleged offense took place. The city shall also pay the expenses in any matter transferred to district court pursuant to section 40-18-06.2 or 40-18-15.1 ~~and~~, in any appeal taken to district court from a judgment of conviction in municipal court pursuant to section 40-18-19, and in an appeal or postconviction matter seeking relief from a conviction resulting from violation of a municipal ordinance. A defendant requesting representation by counsel at public expense, or for whom counsel provided at public expense without a request is considered appropriate by the court, shall submit an application for indigent defense services. For an application for indigent defense services in the district court, a nonrefundable application fee of twenty-five dollars must be paid at the time the application is submitted. The district court may extend the time for payment of the fee or may waive or reduce the fee if the court determines the defendant is financially unable to pay all or part of the fee. If the application fee is not paid before disposition of the case, the fee amount must be added to the amount to be reimbursed under this section. Application fees collected under this subsection must be forwarded for deposit in the indigent defense administration fund established under subsection 4.

Approved March 28, 2011
Filed March 28, 2011

CHAPTER 240

HOUSE BILL NO. 1064

(Representative DeKrey)
(At the request of the Commission on Legal Counsel for Indigents)

AN ACT to amend and reenact subsection 2 of section 29-26-22 of the North Dakota Century Code, relating to court administration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

2. In addition, in all criminal cases except infractions, the court administration fee must include one hundred dollars. Of the additional one hundred dollar court administration fee, the first seven hundred fifty thousand dollars collected per biennium must be deposited in the indigent defense administration fund, which must be used ~~to contract~~ for indigent defense services in this state, and the next four hundred sixty thousand dollars collected per biennium must be deposited in the court facilities improvement and maintenance fund. After the minimum thresholds have been collected, one-half of the additional court administration fee must be deposited in each fund.

Approved March 28, 2011
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