

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/15/2017**

Amendment to: HB 1293

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                       | 2015-2017 Biennium |             | 2017-2019 Biennium |             | 2019-2021 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       |                    |             | \$(89,500)         | \$107,400   | \$(89,500)         | \$107,400   |
| <b>Expenditures</b>   |                    |             |                    |             |                    |             |
| <b>Appropriations</b> |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                         | 2015-2017 Biennium | 2017-2019 Biennium | 2019-2021 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
| <b>Counties</b>         |                    |                    |                    |
| <b>Cities</b>           |                    |                    |                    |
| <b>School Districts</b> |                    |                    |                    |
| <b>Townships</b>        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed House Bill No. 1293 with Senate amendments provides for a \$250 fine for trespass violations. The fine could be assessed as an alternative to the criminal offense.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There were 308 criminal trespass cases in 2015 and 408 in 2016. It is anticipated that the \$125 criminal court administration fee applied to class B misdemeanors and the \$100 court administration fee applied in all cases except infractions would in most cases no longer apply to trespassing on posted property. There however would be a fine of \$250 for trespassing violations.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenues collected from fines are deposited in the state tuition fund. The criminal court administration fee is deposited in the State General Fund and the \$100 court administration fee is allocated between the indigent defense administration fund and the court facilities improvement and maintenance fund.

The \$250 fine will generate approximately \$179,000 for the state tuition fund. It is estimated there will be a decrease in revenues collected from the criminal court administration fee of \$89,500 and the court administration fee of \$71,600

Marsy's law was implemented on December 15, 2006. This law changes the priority for applying moneys collected by the court system to the various fees assessed. It is possible the change in the priority schedule will have an impact on revenues collected from the two criminal fees identified in this fiscal note, but the impact cannot be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Don Wolf

**Agency:** ND Court System

**Telephone:** 328-3509

**Date Prepared:** 02/15/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/02/2017**

Revised  
 Amendment to: HB 1293

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                       | 2015-2017 Biennium |             | 2017-2019 Biennium |             | 2019-2021 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       |                    |             | \$(89,500)         | \$107,400   | \$(89,500)         | \$107,400   |
| <b>Expenditures</b>   |                    |             |                    |             |                    |             |
| <b>Appropriations</b> |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                         | 2015-2017 Biennium | 2017-2019 Biennium | 2019-2021 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
| <b>Counties</b>         |                    |                    |                    |
| <b>Cities</b>           |                    |                    |                    |
| <b>School Districts</b> |                    |                    |                    |
| <b>Townships</b>        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed House Bill No. 1293 provides for a \$250 fine for trespass violations. The violation for trespassing on posted property would not be a criminal offense.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There were 308 criminal trespass cases in 2015 and 408 in 2016. The \$125 criminal court administration fee applied to class B misdemeanors and the \$100 court administration fee applied in all cases except infractions would no longer apply to trespassing on posted property. There however would be a fine of \$250 for trespassing violations.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

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Revenues collected from fines are deposited in the State Tuition Fund. The criminal court administration fee is deposited in the State General Fund and the \$100 court administration fee is allocated between the indigent defense administration fund and the court facilities improvement and maintenance fund.

The \$250 fine will generate approximately \$179,000 for the state tuition fund. It is estimated there will be a decrease in revenues collected from the criminal court administration fee of \$89,500 and the court administration fee of \$71,600

Marsy's law was implemented on December 15, 2006. This law changes the priority for applying moneys collected by the court system to the various fees assessed. It is possible the change in the priority schedule will have an impact on revenues collected from the two criminal fees identified in this fiscal note, but the impact cannot be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Don Wolf

**Agency:** ND Court System

**Telephone:** 328-3509

**Date Prepared:** 02/13/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/02/2017**

Amendment to: HB 1293

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                       | 2015-2017 Biennium |             | 2017-2019 Biennium |             | 2019-2021 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       |                    |             | \$89,500           |             | \$89,500           |             |
| <b>Expenditures</b>   |                    |             |                    |             |                    |             |
| <b>Appropriations</b> |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                         | 2015-2017 Biennium | 2017-2019 Biennium | 2019-2021 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
| <b>Counties</b>         |                    |                    |                    |
| <b>Cities</b>           |                    |                    |                    |
| <b>School Districts</b> |                    |                    |                    |
| <b>Townships</b>        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed House Bill No. 1293 provides for a \$250 fine for trespass violations. The violation for trespassing on posted property would not be a criminal offense.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There were 308 criminal trespass cases in 2015 and 408 in 2016. The \$125 criminal court administration fee applied to class B misdemeanors would no longer apply to trespassing on posted property. There however would be a fine of \$250 for trespassing violations.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The assumption is that the revenues collected from the \$250 fine will be deposited in the State General Fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Don Wolf

**Agency:** ND Court System

**Telephone:** 328-3509

**Date Prepared:** 02/03/2017

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/12/2017**

Bill/Resolution No.: HB 1293

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                       | 2015-2017 Biennium |             | 2017-2019 Biennium |             | 2019-2021 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       |                    |             | \$179,000          |             | \$179,000          |             |
| <b>Expenditures</b>   |                    |             |                    |             |                    |             |
| <b>Appropriations</b> |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                         | 2015-2017 Biennium | 2017-2019 Biennium | 2019-2021 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
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| <b>Cities</b>           |                    |                    |                    |
| <b>School Districts</b> |                    |                    |                    |
| <b>Townships</b>        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for a \$250 fine for criminal trespass violations.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There were 308 criminal trespass cases in 2015 and 408 in 2016.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenues collected from the \$250 fine will be deposited in the State General Fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Don Wolf

**Agency:** ND Court System

**Telephone:** 328-3509

**Date Prepared:** 01/18/2017



**2017 HOUSE JUDICIARY**

**HB 1293**

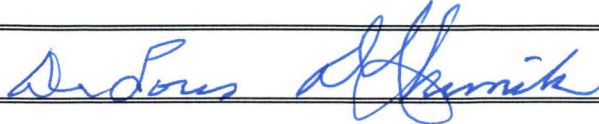
# 2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1293  
1/23/2017  
27227

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass; and to provide a penalty.

Minutes:

**Chairman K. Koppelman:** Opened the hearing on HB 1293.

**Rep. J. Grueneich:** Introduced the bill. This bill is to clean up the system. Criminal trespass is a crime you get cited on and you go to court. That system has in some cases proved to work. The problem with it is it burdens the court system. Discussed the arrests in connection with the protesters. When they get their day in court most of them are going to be fined \$250 or less and set on their way. This will relieve some of the burden the court system is seeing. Going over the bill. (3:58- 4:50) I am asking for a do pass.

**Representative Hanson:** It sounds like one of your concerns is return on investment? Given that concern a traffic violation would it not also make sense to look at our fines for speeding and other traffic fines because we lose money every time we pull someone over for speeding because our fines are low. Maybe we have more traffic citations in ND on an average so if we are concerned about covering our costs should we also look at increasing our traffic fines?

**Rep. J. Grueneich:** I am sure some of the speeding fines are being addressed.

**Representative Jones:** You are saying a peace officer who gives someone a charge of criminal trespass then the person can forfeit the bond by paying \$250 and then he doesn't have to go a hearing?

**Rep. J. Grueneich:** Yes that would be correct. Criminal trespass would be the same way under this provision.

**Representative Jones:** I am not sure the wording is right on this. I don't know if a peace officer can cite an individual.

**Rep. Grueneich:** LC put that term in there because it covers peace officer, it covers game warden, peace officer and highway patrol. If we specify if we wanted law enforcement to be included in there.

**Chairman K. Koppelman:** This change in the statute would only apply to Subsection 3, which reads an individual is guilty of a Class B misdemeanor if knowing that that individual is not licensed or privileged to do so to which a notice of trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. So this is dealing with posted land or property and does not leave.

**Rep. Grueneich:** You are correct. Posting of course the standard way. As it is currently written if someone tells me to leave it also serves as notice.

**Julie Ellingson, ND Stockman's Association:** We are in support of public property rights. We support concepts to enhance those protections for landowners.

**Pete Hanabutt, ND Farmers Union:** Support of this bill that is strengthening criminal trespass law.

Opposition:

**Carol Two Eagles, Citizen:** Something needs to be done but you are going to get into it with treaty rights and I don't like mandatory laws.

**David Grey, Citizen:** They are not telling you that they are always referring to criminal trespass. ND does not have a trespass law. ND has criminal trespass. The last two bills I hear talk about criminal trespass and there is a loop hole there. It is about doing damage on land you have not done damage. You should take that criminal off.

Neutral: None

Hearing closed


# 2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1293  
1/23/2017 #2  
27241

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass; and to provide a penalty.

Minutes:

**Chairman K. Koppelman:** Reopened the meeting on HB 1293. His thoughts were it would be a citation and his is different than the other one we heard because this deals with a fine of \$250.

**Representative Vetter:** How could we deal with treaty rights?

**Chairman K. Koppelman:** I believe if this kind of charge were leveled and this bill were the law and a law enforcement official sited someone if you don't think you were guilty you can go to court and contest that ticket.

**Representative Maragos:** I am leery of mandating a specific punishment. All individuals are different and there are different circumstances. Maybe there is a way to have some flexibility?

**Chairman K. Koppelman:** We could amend the shall into may and saying a fine up to \$250.

**Representative Paur:** I believe this applies to a class B misdemeanor? There is a Class C felony type of trespassing now and a Class A misdemeanor type of trespass. This is the lowest form.

**Chairman K. Koppelman:** This looks like it would come into play would be for hunting and someone is trespassing on land where it is posted and it also could be someone trespassing and you ask them to leave and they refuse to leave then this could come into play.

**Representative Klemin:** I have problems on top of page 2 I don't think a police officer sites anybody with a fine. They have to cite them with a violation of a particular statue or ordinance for which a court might impose a fine so technically it doesn't read correctly. A speeding ticket is different because if you go so fast we have laws that say it is X amount. This talks

about a Class B misdemeanor which the fine is 30 days in jail or up to \$1500 or both. This takes that out of the problems of the court and puts in the hands of the peace officer to decide. I don't think it is workable.

**Chairman K. Koppelman:** The sponsor of the bill is trying to take an offense that normally done and sort of putting it in the same category as traffic offenses in terms of the way they are dealt with. His testimony was this is the way to clog the courts.

**Representative Vetter:** It is not like the person knows they are trespassing. I think it makes sense in a lot of ways. Why do we need to bog down the system? This is cut and dried.

**Representative Klemin:** Then we need to revise this language it should be \$1500.

**Representative Paur:** On page 1, line 15 we would do something like an individual is guilty of simple trespass and then take the misdemeanor reference out and put a \$250 on it?

**Chairman K. Koppelman:** In essence it would be lowering the fine and keeping it out of the courts.

**Representative Simons:** My brother just bought a 420 head ranch and trespassers all the time. (10:00-12:07) We noticed the railroad had their own police department and discussed how they were utilizing them. Discussed how these people are trespassing and getting by with it.

**Representative Klemin:** If you go into some bodies house and they don't leave you can shoot this person.

**Chairman K. Koppelman:** This bill as written, maybe you could have a peace officer sitting an individual; collecting \$250 and that person could still be charged with a Class B misdemeanor.

**Representative Roers Jones:** The \$250 fine doesn't take care of the underlying misdemeanor crime. I think we should kill this bill.

**Representative Jones:** What they are asking for is a quick type way to deal with a certain type of trespass so he said today 570 people have been charged and they are just starting to go through the court process, but if there is some way to put something in and allow for doing that.

**Chairman K. Koppelman:** If one wanted to enact a bill and have it go into effect immediately you would need to add the emergency clause as well.

**Representative Vetter:** This is really an infraction. Not a Class B misdemeanor.

**Chairman K. Koppelman:** If we wanted to have a mechanism to deal with these instances in lieu of charging a class B misdemeanor and do all the rest the bill needs some work. (17:48-20: Explained how conference committee works.

Representative Vetter: I think we should put out the best product and get back together.

Closed.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1293  
2/1/2017  
27772

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass; and to provide a penalty.

Minutes:

1

**Chairman K. Koppelman:** Opened the hearing on HB1293. This is relating to fines.

**Representative Vetter:** (#1) Passed out proposed amendment 17.0650.01001.

**Representative Jones:** This is going to be difficult. (1:41) Went over the proposal.

**Representative Vetter:** Had to come up with a different way.

**Chairman K. Koppelman:** Going over the proposed amendment as relating to the bill. This maybe mirrors what is in statutes for citations, if would assume.

**Representative Vetter:** The problem we had with the original bill is you are trying to change the penalty for trespassing for the same crime so if you do the same crime you can't be charged two different things for it. We had to come up with a different way of classifying it differently. Instead of criminal trespass it is trespassing on posted property.

**Chairman K. Koppelman:** The title has changed, but the section of code has not. I think what your amendment does it changes the criminal trespass statute currently existing because the language on page 1 is current law. They are typically hunting and trespassing laws.

**Representative Vetter:** They took out the posting part so you couldn't get this by just trespassing. Top part is the criminal trespass and the bottom here says this is non-criminal trespass.

**Chairman K. Koppelman:** We could simply pass the bill; make these concerns known to the Senate and ask them to attach it over there if they agree with it. Then we could concur with it.

**Representative Klemin:** One way would be to take out subsection 3 which is the Class B misdemeanor that contains all the same language.

**Chairman K. Koppelman:** You think we need to delete the Class B misdemeanor? If we did that we would be actually lowering the offense.

**Representative Vetter:** If the individual remains on the property when requested to leave; then it is a Class B. They wanted to just give them a fine and not have to deal with court.

**Representative Hanson:** The burden to the court system was brought forward. They would like to just fine the person and send them on their way.

**Representative Jones:** That was the intent because we are trying to get an either or here to alleviate the over burden courts.

**Chairman K. Koppelman:** If the intent here is to give law enforcement help; rather than replacing this language with the Class B misdemeanor language do you see a way to incorporate this language by saying that they may either do this or that?

**Representative Klemin:** So we make them the judge. I am not sure that is appropriate.

**Representative Paur:** Don't they have to be breaking the law or violation? Does it say that?

**Chairman K. Koppelman:** I assume the language comes from the traffic area.

**Representative Jones:** This can't be made retroactive back.

**Motion Made to Move the amendment by Rep. Klemin to 17.0650.01001 with the exception instead of placing it on page 2, line 7, after 5 we placed it on line 15 after the #3, overstrike all of the existing language on line 15 to 22. add the emergency clause. Seconded by Rep. Nelson**

**Chairman K. Koppelman:** This does change the trespass laws.

**Representative Simons:** We need to put teeth in this. Are we passing it out just to get it out of here?

**Chairman K. Koppelman:** That offense is remaining after being asked to leave? That is why they are in current law. Page 2, subsection b. deals with trespassing and refusing to leave so if we do change this to pay the fine; they want to ratchet that up.

**Representative Klemin:** What you are saying is we would overstrike 15-20; leave in 21 & 22.

**Amended my motion to leave in lines 21 & 22 by Representative Klemin: Seconded Representative Nelson**



**Chairman K. Koppelman:** Page 2 removes line 1 & 2; page 1 delete lines 15-20; added the emergency clause.

**Representative Magrum:** Now there is a push to make it so we don't have to post our land anymore. If that bill passes that would make this bill null and void?

**Representative Klemin:** I wouldn't assume that other bill is going to pass because we have had that several times already.

**Representative Simons:** Why not make it a \$500 fine?

**Representative Vetter:** If you feel \$250 is too low?

**Representative Magrum:** Would that land have to be posted in town and in the country?

**Chairman K. Koppelman:** I don't see a difference?

**Voice vote carried.**

**Moved an amendment to increase the fine to \$500 by Representative Vetter: Seconded by Representative Simons:**

**Voice Vote Uncertain. Roll Call Vote Failed. 7 Yes 7 No 1 Absent**

**Do Not Pass as Amended Motion Made by Representative Magrum: Seconded by Representative Paur:**

Discussion:

**Representative Magrum:** I think we are changing the whole intent of this bill. The problem was they were pulling the posted signs out at the protest. Now we are putting that back into the bill so we are taking the intent of the sponsors out.

**Representative Hanson:** I think the intent was having an expedited process to deal with the load.

**Representative Jones:** I disagree with the do not pass. I like the bill before us that gives a \$250 penalty; we still have a misdemeanor that they can be charged there.

**Roll Call on Do Not Pass Motion: 3 Yes 11 No 1 Absent**

**Do Pass as Amended by Representative Vetter: Seconded by Representative Johnston:**

**Representative Simons:** Why are you voting that way?

**Roll Call Vote: 12 Yes 2 No 1 Absent Carrier: Representative Jones**

**Closed.**

February 2, 2017

*Handwritten:*  
2/2/2017  
10/2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1293

Page 1, line 2, replace "criminal trespass" with "trespassing on posted property"

Page 1, line 6, after "trespass" insert "**- Noncriminal offense on posted property**"

Page 1, line 15, overstrike "is guilty of a class B misdemeanor if, knowing that that individual is not"

Page 1, line 16, overstrike "licensed or privileged to do so, the individual enters or remains in"

Page 1, line 16, remove "a"

Page 1, line 16, overstrike "place as to"

Page 1, overstrike lines 17 through 19

page 1, line 20, overstrike "posting the premises must appear on each sign in legible characters" and insert immediately thereafter ", knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters. A violation of this subsection is a noncriminal offense.

- a. A peace officer shall cite an individual who violates this subsection with a fine of two hundred fifty dollars for each violation.
- b. The peace officer citing the individual shall:
  - (1) Take the name and address of the individual; and
  - (2) Notify the individual of the right to request a hearing if posting bond by mail.
- c. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
- d. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
- e. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
- f. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual

2/2

requesting the hearing notifying the individual of the date of the hearing before the designated official.

g. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond. If the individual cited follows the foregoing procedures, the individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.

h. A citing peace officer may not receive the statutory fine or bond"

Page 1, line 21, remove "a."

Page 1, line 21, overstrike "An individual who violates this subsection is guilty of a class A misdemeanor for"

Page 1, overstrike line 22

Page 2, remove lines 1 and 2

Reorder accordingly

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1293**

House   **Judiciary**   Committee

Subcommittee

Amendment LC# or Description: **to 17.0650.01001 with the exception instead of placing it on page 2, line 7, after 5 we placed it on line 15 after the #3, overstrike all of the existing language on line 15 to 22. add the emergency clause.**

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Klemin   Seconded By   Rep. Nelson  

| Representatives       | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman K. Koppelman |     |    | Rep. Hanson     |     |    |
| Vice Chairman Karls   |     |    | Rep. Nelson     |     |    |
| Rep. Blum             |     |    |                 |     |    |
| Rep. Johnston         |     |    |                 |     |    |
| Rep. Jones            |     |    |                 |     |    |
| Rep. Klemin           |     |    |                 |     |    |
| Rep. Magrum           |     |    |                 |     |    |
| Rep. Maragos          |     |    |                 |     |    |
| Rep. Paur             |     |    |                 |     |    |
| Rep. Roers-Jones      |     |    |                 |     |    |
| Rep. Satrom           |     |    |                 |     |    |
| Rep. Simons           |     |    |                 |     |    |
| Rep. Vetter           |     |    |                 |     |    |

Total   (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment : \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**Voice vote carried.**

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1293**

House   **Judiciary**   Committee

Subcommittee

Amendment LC# or Description:   **Increase fine to \$500.**  

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Vetter   Seconded By   Rep. Simons  

| Representatives       | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman K. Koppelman |     | X  | Rep. Hanson     |     | X  |
| Vice Chairman Karls   |     | X  | Rep. Nelson     | X   |    |
| Rep. Blum             |     | X  |                 |     |    |
| Rep. Johnston         | X   |    |                 |     |    |
| Rep. Jones            | X   |    |                 |     |    |
| Rep. Klemin           |     | X  |                 |     |    |
| Rep. Magrum           | X   |    |                 |     |    |
| Rep. Maragos          | --- |    |                 |     |    |
| Rep. Paur             |     | X  |                 |     |    |
| Rep. Roers-Jones      |     | X  |                 |     |    |
| Rep. Satrom           | X   |    |                 |     |    |
| Rep. Simons           | X   |    |                 |     |    |
| Rep. Vetter           | X   |    |                 |     |    |
|                       |     |    |                 |     |    |

Total   (Yes)   7                             No   7  

Absent   1  

Floor Assignment   :  

If the vote is on an amendment, briefly indicate intent:

**Motion Failed.**

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1293**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0650.01002

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Margum Seconded By Rep. Paur

| Representatives       | Yes  | No | Representatives | Yes | No |
|-----------------------|------|----|-----------------|-----|----|
| Chairman K. Koppelman |      | x  | Rep. Hanson     |     | x  |
| Vice Chairman Karls   |      | x  | Rep. Nelson     | x   |    |
| Rep. Blum             |      | X  |                 |     |    |
| Rep. Johnston         |      | X  |                 |     |    |
| Rep. Jones            |      | X  |                 |     |    |
| Rep. Klemin           |      | X  |                 |     |    |
| Rep. Magrum           | x    |    |                 |     |    |
| Rep. Maragos          | ---- |    |                 |     |    |
| Rep. Paur             | X    |    |                 |     |    |
| Rep. Roers-Jones      |      | X  |                 |     |    |
| Rep. Satrom           |      | X  |                 |     |    |
| Rep. Simons           |      | X  |                 |     |    |
| Rep. Vetter           |      | X  |                 |     |    |

Total (Yes) 3 No 11

Absent 1

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**MOTION FAILED**

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1293**

House   **Judiciary**   Committee

Subcommittee

Amendment LC# or Description:   **17.0650.01002**  

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Vetter   Seconded By   Rep. Johnston  

| Representatives       | Yes  | No | Representatives | Yes | No |
|-----------------------|------|----|-----------------|-----|----|
| Chairman K. Koppelman | X    |    | Rep. Hanson     | X   |    |
| Vice Chairman Karls   | X    |    | Rep. Nelson     |     | X  |
| Rep. Blum             | X    |    |                 |     |    |
| Rep. Johnston         | x    |    |                 |     |    |
| Rep. Jones            | x    |    |                 |     |    |
| Rep. Klemin           | X    |    |                 |     |    |
| Rep. Magrum           |      | X  |                 |     |    |
| Rep. Maragos          | ---- |    |                 |     |    |
| Rep. Paur             | X    |    |                 |     |    |
| Rep. Roers-Jones      | X    |    |                 |     |    |
| Rep. Satrom           | x    |    |                 |     |    |
| Rep. Simons           | x    |    |                 |     |    |
| Rep. Vetter           | X    |    |                 |     |    |
|                       |      |    |                 |     |    |

Total   (Yes)   12                             No   2  

Absent   1  

Floor Assignment   : Rep. Jones  

If the vote is on an amendment, briefly indicate intent:



REPORT OF STANDING COMMITTEE

HB 1293: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1293 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "criminal trespass" with "trespassing on posted property"

Page 1, line 6, after "**trespass**" insert "- Noncriminal offense on posted property"

Page 1, line 15, overstrike "is guilty of a class B misdemeanor if, knowing that that individual is not"

Page 1, line 16, overstrike "licensed or privileged to do so, the individual enters or remains in"

Page 1, line 16, remove "a"

Page 1, line 16, overstrike "place as to"

Page 1, overstrike lines 17 through 19

page 1, line 20, overstrike "posting the premises must appear on each sign in legible characters" and insert immediately thereafter ", knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters. A violation of this subsection is a noncriminal offense.

- a. A peace officer shall cite an individual who violates this subsection with a fine of two hundred fifty dollars for each violation.
- b. The peace officer citing the individual shall:
  - (1) Take the name and address of the individual; and
  - (2) Notify the individual of the right to request a hearing if posting bond by mail.
- c. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
- d. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
- e. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
- f. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.

g. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond. If the individual cited follows the foregoing procedures, the individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.

h. A citing peace officer may not receive the statutory fine or bond"

Page 1, line 21, remove "a."

Page 1, line 21, overstrike "An individual who violates this subsection is guilty of a class A misdemeanor for"

Page 1, overstrike line 22

Page 2, remove lines 1 and 2

Renumber accordingly

**2017 SENATE JUDICIARY**

**HB 1293**

# 2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

HB 1293  
2/13/2017  
28271

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to trespassing on posted property; and to provide a penalty.

Minutes:

Attachments

1,2

**Chairman Armstrong** called the committee to order on HB 1293. All committee members were present.

**Chairman Armstrong's** proposed Amendment was handed out to the committee. (see attachment 2)

**Jim Grueneich, North Dakota State Representative District 12**, introduced and testified in support of the bill. No written testimony.

"The main point of this bill is to simplify criminal trespass. The first offense can be issued as a citation, as opposed to requiring arrest and coming to court. Ultimately, this would be issued how you would issue a speeding ticket. We just want to unburden the court system in the event of a trespass."

**Chairman Armstrong**: "We have some language in Game and Fish law that allows for you to continue a prosecution under this even if the sign isn't necessarily properly posted, if it's obvious by the circumstances that trespassing would be committed. Would you be comfortable if we changed the bill to make this law and the Game and Fish law consistent?"

**Representative Grueneich**: "Yes."

**Andrew Alexis Varvel, North Dakota citizen**, testified in opposition of the bill. (see attachment 1) Andrew Varvel thought this bill was an enhancement but Chairman Armstrong informed him it was not an enhancement but in fact decreased the penalty. Andrew Varvel ended his testimony after discovering this.

**Carel Two-Eagle, North Dakota citizen**, testified in opposition of the bill. No written testimony.

"I just want to say that I seem to see the term criminal pop up a lot this session and I get uneasy every time I see that word pop up. I'd just ask that you take that into consideration."

**Chairman Armstrong** closed the hearing on HB 1293.

**Chairman Armstrong** went over some stuff on the bill to the committee and all of those present.

"I think this one has some merit to move forward, these type of non-violent trespass issues. This will also work for Game and Fish violations, maybe a sign isn't properly posted but there is a tire hanging from a tree with a sign on it that says no trespassing. Then you get 4 out of state hunters and look at it and say, 'well your land wasn't properly posted. Well great, here's your 250-dollar ticket. Have at it and get out of here.'"

**Senator Luick:** "So on this bill, what happens if someone does innocently trespass and/or is unknowingly trespassing. Is there a warning of any kind?"

**Chairman Armstrong:** "Under current law, we'll use rural land trespass because the differences can be significant, if you don't know the land is posted you may be committing a trespass but you would not be criminally trespassing. Criminal trespass is only if you are on a land that is conspicuously posted and you are on it anyway. But I would also tell you that you are violating the trespass law even if the land isn't conspicuously posted if you know either that it's posted, or you aren't supposed to be on it."

**Senator Luick:** "What does the law say when you have a party on your property that either you do or do not have a no trespassing sign out there, if someone gets injured on your property? What does the law say about someone being liable for something that happens to someone else on your own land?"

**Chairman Armstrong:** "I'm not entirely sure. There is a liability shield for unposted land. So if you are on unposted land and you hurt yourself without ever talking to the land owner, the land owner has a liability shield that protects him."

**Chairman Armstrong** went over the Amendment for HB 1293. (see attachment 2)

No motions were made.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1293 Committee Work  
2/13/2017  
28299

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to trespassing on posted property; and to provide a penalty.

**Minutes:**

**Attachments**

1

**Chairman Armstrong** began the discussion on HB 1293. All committee members were present.

The committee reviewed the proposed Amendment. (see attachment 1)

**Chairman Armstrong:** "What I'm proposing is that the Class B Misdemeanors stay in place, exactly the way it is."

**Senator Myrdal:** "How will this affect or go along with the other trespassing bill, 2225? Is that one necessary if you have this?"

**Chairman Armstrong:** "Yes. If that bill passes, then this bill will end up having to be changed. This is not unique, we are both in the same section of the code in two different committees dealing with two completely separate issues, the key to that is we will have to inform the Governor's office that depending on what he signs and when he signs it, he can cause problems. That's what conference committees and the end of the session for fixing all of this is for. I am also in Natural Resources, so I will have both these bills at the same time to some degree or another, and have worked with the author of that bill to make sure he's aware of what's going on in these committees regarding these bills."

**Chairman Armstrong** ended the discussion on HB 1293.

No motions were made.

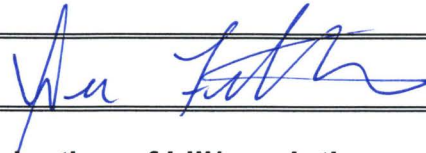
# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1293 Committee Work 2  
2/14/2017  
28341

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to trespassing on posted property; and to provide a penalty.

**Minutes:**

**Attachments**

1

**Chairman Armstrong** began the discussion on HB 1293. All committee members were present.

**Chairman Armstrong:** "We will act on these later this afternoon but I just want to walk through a couple of them."

**Senator Nelson:** "Is this the Christmas tree one?"

Senator Nelson was referring to the proposed Amendment that was handed out, which was in Christmas tree format. (see attachment 1)

**Chairman Armstrong:** "Yes. The Christmas tree draft makes it look like there are a lot changes to the bill, but it actually is simpler than that."

Chairman Armstrong went over the proposed Amendment. (see attachment 1)

**Senator Myrdal:** "I don't view any of these bills as related to DAPL, because I think this is long term. I will say that I read this and I know the upcoming bill 2225 also deals with this, and for the life of me I can't see the need for both of them. So I find it kind of frustrating how these will overlap with each other."

**Chairman Armstrong:** "I will tell you that SB 2225 just takes out the signage requirement. These two will be able to be rectified if SB 2225 passes."

No motions were made.

**Chairman Armstrong** ended the discussion on HB 1293.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1293 Committee Work 3  
2/14/2017  
28370

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to trespassing on posted property; and to provide a penalty.

**Minutes:**

**Attachments**

1,2

**Chairman Armstrong** began the discussion on HB 1293.

The proposed Amendment was reviewed – two different formats. (see attachment 1,2)

**Senator Larson** motioned to adopt the amendment. **Senator Luick** seconded.

Discussion followed:

**Chairman Armstrong:** "This does not create any new crimes; this does not enhance any penalties. This one at the very least, I believe, solves some issues. When it came to us, a Class B Misdemeanor for trespassing was removed from it. I put it back in. The theory behind the bill is just citing some people with a ticket and letting them go and I think that theory is somewhat sound. I think you can't decouple trespassing law from Game and Fish law, and I don't know why we'd have a Class B Misdemeanor Game and Fish law, but not have one in regular trespass law. The attempt to turn this into a non-criminal violation is a good idea in theory, I just don't think we need to get rid of the Class B Misdemeanor to do so. The main point here is to make criminal trespass the same as Game and Fish trespass law, such as hunting on posted property."

**Senator Nelson:** "How often does a land owner carry through and go after some of these people that trespass on their land?"

**Chairman Armstrong:** "It varies, a lot of it depends on when and where you got caught. The other answer is that there are land owners that have land in areas that are much better for hunting than other areas, so they have to deal with it significantly more often than other land owners. In which it would vary by deputy, and by states attorney; it varies by lots of different things. This just allows whether it's a protester-landowner dispute, or whether it's a hunter-landowner dispute, either way, it just creates a lower non-criminal level where they may be able to seek some justice without having to deal with a criminal trial and a Misdemeanor."



**Senator Nelson:** “When I was younger I use to go fly-fishing on the river, and so we would wander away up and down the river and sometimes we would go on a bank that may be on someone else’s land. I guess I’m wondering how they would know we were there. And could I be charged with trespassing?”

**Chairman Armstrong:** “That’s the key to all this legislation and that’s the balance with this bill and the other bill as well. Knowing you’re not licensed to do so is the key in the non-criminal, in the criminal it has to be posted and it has to be properly signed. So if you went up on the bank and there was no sign or any indication that that land was posted than you would be okay. If you then find out that you are on posted land, then it is your duty to get out of there.”

**Senator Myrdal:** “As a land owner, generally for us it’s not a problem. Generally, people come and ask us to walk on it. I think the majority of the time land owners aren’t going to apply this, unless those people are a consistent threat and are consistently on their land.”

**Chairman Armstrong:** “I can give you the DAPL example and I can give you the non-DAPL example. The DAPL example is eight people walking behind the first person, the first person tears down the no trespassing or no hunting sign, the other eight walk on to the property. It’s very difficult under current law to prosecute them all. If you catch the first one you can prosecute because he was the one to throw the sign down and you can deal with that. Persons two through nine are very difficult to prosecute due to the way the law is written. With the language that we are adding, I think we at least have the ability to continue with the prosecution, whether or not you think you can get a conviction is another story. The non-DAPL situation is like there are guys up on a hill shooting at prairie dogs and the landowner came up to them and they said, “Well, you didn’t sign your sign; so it’s not properly posted.” Which means they saw it and they knew that it was posted to begin with. In that situation they are getting a \$250 dollar fine, at the very least.”

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.  
The motion carried.

**Senator Larson** moves Do Pass as Amended. **Senator Luick** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.  
The motion carried.

**Chairman Armstrong** carried the bill.

**Chairman Armstrong** ended the discussion on HB 1293.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1293

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 12.1-22-03 and 37-17.1-22 of the North Dakota Century Code, relating to trespassing on posted property and disaster and emergency response recovery costs; to provide a penalty; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
3.
  - a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
  - b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
  - c. An individual who violates ~~this subsection~~ subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
4.
  - a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to

the attention of intruders. A violation of this subdivision is a noncriminal offense.

- b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
  - i. A citing peace officer may not receive the statutory fine or bond.
  - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
- 4.5. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
- 5.6. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

**SECTION 2. AMENDMENT.** Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and recovery costs.**

~~Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state and local response and recovery operations in accordance with an agreement with the federal government, in accordance with procedures established by the governor in the case of a state-declared disaster or emergency, and in accordance with procedures established by the state emergency response plan. If the event has met the Stafford Act minimum for a presidential disaster declaration and for which the request is denied, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state and fifty percent of the public infrastructure recovery costs above statutorily maintained emergency funds for counties that exceeds twice the individual county federal declaration eligibility threshold, limited to a maximum amount available per disaster of one million dollars and a maximum amount available per biennium of three million dollars. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.~~

**(Effective after June 30, 2017) Disaster or emergency response and recovery costs.**

Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state response and recovery operations in accordance with an agreement with the federal government or in accordance with procedures established by the governor in the case of a state-declared disaster or emergency. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governors designated representative of an amount equal to that certified in such application by the governor.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1293**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0650.02005

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Larson Seconded By Senator Luick

| Senators           | Yes | No | Senators       | Yes | No |
|--------------------|-----|----|----------------|-----|----|
| Chairman Armstrong | X   |    | Senator Nelson | X   |    |
| Vice-Chair Larson  | X   |    |                |     |    |
| Senator Luick      | X   |    |                |     |    |
| Senator Myrdal     | X   |    |                |     |    |
| Senator Osland     | X   |    |                |     |    |
|                    |     |    |                |     |    |
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|                    |     |    |                |     |    |
|                    |     |    |                |     |    |

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1293**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0650.02005

Recommendation:     Adopt Amendment  
                           Do Pass     Do Not Pass     Without Committee Recommendation  
                           As Amended     Rerefer to Appropriations  
                           Place on Consent Calendar  
Other Actions:         Reconsider     \_\_\_\_\_

Motion Made By Senator Larson    Seconded By Senator Luick

| Senators           | Yes | No | Senators       | Yes | No |
|--------------------|-----|----|----------------|-----|----|
| Chairman Armstrong | X   |    | Senator Nelson | X   |    |
| Vice-Chair Larson  | X   |    |                |     |    |
| Senator Luick      | X   |    |                |     |    |
| Senator Myrdal     | X   |    |                |     |    |
| Senator Osland     | X   |    |                |     |    |
|                    |     |    |                |     |    |
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Total    (Yes) 6    No 0

Absent 0

Floor Assignment Chairman Armstrong

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1293, as engrossed: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1293 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 12.1-22-03 and 37-17.1-22 of the North Dakota Century Code, relating to trespassing on posted property and disaster and emergency response recovery costs; to provide a penalty; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
3.
  - a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
  - b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
  - c. An individual who violates ~~this subsection~~ subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
4.
  - a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is a noncriminal offense.
  - b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.

- c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
  - i. A citing peace officer may not receive the statutory fine or bond.
  - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
- 4-5. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
- 5-6. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

**SECTION 2. AMENDMENT.** Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and recovery costs.**

~~Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state and local response and recovery~~



~~operations in accordance with an agreement with the federal government, in accordance with procedures established by the governor in the case of a state-declared disaster or emergency, and in accordance with procedures established by the state emergency response plan. If the event has met the Stafford Act minimum for a presidential disaster declaration and for which the request is denied, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state and fifty percent of the public infrastructure recovery costs above statutorily maintained emergency funds for counties that exceeds twice the individual county federal declaration eligibility threshold, limited to a maximum amount available per disaster of one million dollars and a maximum amount available per biennium of three million dollars. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.~~

**(Effective after June 30, 2017) Disaster or emergency response and recovery costs.**

Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state response and recovery operations in accordance with an agreement with the federal government or in accordance with procedures established by the governor in the case of a state-declared disaster or emergency. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governors designated representative of an amount equal to that certified in such application by the governor.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2017 TESTIMONY**

**HB 1293**

#1  
1293  
2/1/17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1293

Page 1, line 2, replace "criminal trespass" with "trespassing on posted property"

Page 1, line 6, after "**trespass**" insert "- Noncriminal offense on posted property"

Page 1, line 15, overstrike the second "that" and insert immediately thereafter "the"

Page 1, line 18, overstrike "or by posting in a"

Page 1, overstrike line 19

Page 1, line 20, overstrike "posting the premises must appear on each sign in legible characters"

Page 1, line 21, remove "a."

Page 2, remove lines 1 and 2

Page 2, line 7, after "5." insert "An individual, knowing that the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters. A violation of this subsection is a noncriminal offense.

- a. A peace officer shall cite an individual who violates this subsection with a fine of two hundred fifty dollars for each violation.
- b. The peace officer citing the individual shall:
  - (1) Take the name and address of the individual; and
  - (2) Notify the individual of the right to request a hearing when posting bond by mail.
- c. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
- d. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
- e. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
- f. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual

requesting the hearing notifying the individual of the date of the hearing before the designated official.

- g. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond. If the individual cited follows the foregoing procedures, the individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.
- h. A citing peace officer may not receive the statutory fine or bond.

6."

Renumber accordingly

① 2/13/17

House Bills 1293 & 1426

Chairman Armstrong and Members of the Committee:

My name is Andrew Alexis Varvel.

These comments are addressed to HB 1293 and HB 1426, but they apply to all four bills this morning.

We are facing prison overcrowding. We face a major budget shortfall. And now, this bill proposes to increase the burden to our prison system because some people are mad at political demonstrators. At a time when we are in desperate need of paring down the criminal section of the Century Code, these bills propose to increase penalties for existing offenses and create new ones. This is going in the wrong direction.

Any legislator who imagines that these bills will necessarily deter future protests would be sadly mistaken. Protests generally happen in reaction to a perceived injustice. Would it have been wise for law enforcement to massively arrest members of the Tea Party for rioting at congressional town halls? I don't think so. Moreover, we need to consider the effect these very bills may have upon out-of-state protesters. Increasing the criminal penalties for protest would likely increase the motivation of ideologically committed protesters to come to North Dakota. The harsher the legislative reaction against protests, the more the protests become a celebrity cause. Far from deterring protests, punitive legislation stands a good chance of practically functioning as an incitement to riot.

As a resident of North Dakota, I do not look fondly upon the possibility of the North Dakota State Penitentiary serving as a classroom for a new generation of political radicals. It's happened before. Maze prison in Northern Ireland, Robben Island in South Africa, and Camp Bucca in Iraq come to mind. A prison sentence in North Dakota should not become a badge of honor to pad the resumes of aspiring political radicals.

The original Boston Tea Party was a bona fide riot. That riot caused economic harm to the British East India Company. The men dressed up as fake Indians to disguise their identities. But then, the British Parliament reacted so vindictively that it inflamed colonial opinion against the Crown. Closing Boston Harbor was unwise.

There's an old joke from Apartheid South Africa. "When an Afrikaner wants to break a chap's heart, he makes a law."

<http://www.noeasyvictories.org/congress/uscg002.pdf>  
(Page 176 of the .pdf file)

North Dakota needs to deal with political protests in an intelligent and pragmatic manner. The Legislature needs to avoid becoming a party to escalating a tense situation. I think we are all agreed that the Senate Judiciary Committee is under immense political pressure to not only recommend these bills but push them through as fast as possible, so withstanding that pressure won't be easy. I hope this committee acts with courage and deliberation to put brakes on what are clearly punitive measures against pipeline protests.

I recommend a DO NOT PASS on all four of these bills.

2

2/13/17

17.0650.02000

Sixty-fifth  
Legislative Assembly  
of North Dakota

INTERN DRAFT AMENDMENT FOR ENGROSSED HB 1293

Section placement to be determined:

"Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of ]sub]section X, an individual may be found guilty of violating section 12.1-22-03 if the owner, tenant, or individual authorized by the owner substantially complied with [sub]section x and notice against hunting or trespassing is clear from the circumstances."

17.0650.02000

Sixty-fifth  
Legislative Assembly  
of North Dakota

INTERN DRAFT AMENDMENT FOR ENGROSSED HB 1293

*in addition to LC amendment 17.0650.02002*

*Amend title*

Page 1, line 2 after the semicolon remove "and"

Page 1, line 2 after "penalty" insert "; and to declare an emergency"

Page 1, line 20 after "characters." insert "Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of this subsection an individual may be found guilty of violating section 12.1-22-03 if the owner, tenant, or individual authorized by the owner substantially complied with this subsection and notice against trespass is clear from the circumstances."

*After the subsection 5 insert:*

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



Sixty-fifth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1293

Introduced by

Representatives Grueneich, Dockter, Headland, K. Koppelman, Lefor, Nathe, Oliver, M.  
Ruby, Satrom, Seibel

Senator Wanzek

1 A BILL ~~for an Act to amend and reenact section 12.1-22-03 of the North Dakota Century Code,~~  
2 ~~relating to trespassing on posted property; and to provide a penalty.~~ for an Act to amend and  
3 reenact sections 12.1-22-03 and 37-17.1-22 of the of the North Dakota Century Code, relating  
4 to trespassing on posted property and disaster and emergency response recovery costs; to  
5 provide a penalty; and to declare an emergency.

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

7 ~~SECTION 1. AMENDMENT.~~ Section 12.1-22-03 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 ~~12.1-22-03. Criminal trespass - Noncriminal offense on posted property.~~

10 ~~1. An individual is guilty of a class C felony if, knowing that that individual is not licensed~~  
11 ~~or privileged to do so, the individual enters or remains in a dwelling or in highly~~  
12 ~~secured premises.~~

13 ~~2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not~~  
14 ~~licensed or privileged to do so, the individual:~~

15 ~~a. Enters or remains in or on any building, occupied structure, or storage structure,~~  
16 ~~or separately secured or occupied portion thereof; or~~

17 ~~b. Enters or remains in any place so enclosed as manifestly to exclude intruders.~~

18 ~~3. An individual is guilty of a class B misdemeanor if, knowing that that individual is not~~  
19 ~~licensed or privileged to do so, the individual enters or remains in any place as to~~  
20 ~~which notice against trespass is given by actual communication to the actor by the~~  
21 ~~individual in charge of the premises or other authorized individual or by posting in a~~  
22 ~~manner reasonably likely to come to the attention of intruders. The name of the person~~  
23 ~~posting the premises must appear on each sign in legible characters, knowing the~~

1 ~~individual is not licensed or privileged to do so, may not enter or remain in a place as~~  
2 ~~to which notice against trespass is given by posting in a manner reasonably likely to~~  
3 ~~come to the attention of intruders. The name of the person posting the premises must~~  
4 ~~appear on each sign in legible characters. A violation of this subsection is a~~  
5 ~~noncriminal offense.~~

6 ~~a. A peace officer shall cite an individual who violates this subsection with a fine of~~  
7 ~~two hundred fifty dollars for each violation.~~

8 ~~b. The peace officer citing the individual shall:~~

9 ~~(1) Take the name and address of the individual; and~~  
10 ~~(2) Notify the individual of the right to request a hearing if posting bond by mail.~~

11 ~~c. The peace officer may not take the individual into custody or require the~~  
12 ~~individual to proceed with the peace officer to any other location for the purpose~~  
13 ~~of posting bond. The officer shall provide the individual with an envelope for use~~  
14 ~~in mailing the bond.~~

15 ~~d. An individual cited may appear before the designated official and pay the~~  
16 ~~statutory fine for the violation at or before the time scheduled for hearing.~~

17 ~~e. If the individual has posted bond, the individual may forfeit bond by not appearing~~  
18 ~~at the designated time.~~

19 ~~f. If the individual posts bond by mail, the bond must be submitted within fourteen~~  
20 ~~days of the date of the citation and the individual cited shall indicate on the~~  
21 ~~envelope or citation whether a hearing is requested. If the individual does not~~  
22 ~~request a hearing within fourteen days of the date of the citation, the bond is~~  
23 ~~deemed forfeited and the violation admitted. If the individual requests a hearing,~~  
24 ~~the court for the county in which the citation is issued shall issue a summons to~~  
25 ~~the individual requesting the hearing notifying the individual of the date of the~~  
26 ~~hearing before the designated official.~~

27 ~~g. Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~  
28 ~~at the individual's request, the individual may make a statement in explanation of~~  
29 ~~the individual's action. The official may at that time waive or suspend the statutory~~  
30 ~~fine or bond. If the individual cited follows the foregoing procedures, the individual~~

1 ~~is deemed to have admitted the violation and to have waived the right to a~~  
2 ~~hearing on the issue of commission of the violation.~~

3 ~~h. A citing peace officer may not receive the statutory fine or bond. An individual~~  
4 ~~who violates this subsection is guilty of a class A misdemeanor for the second or~~  
5 ~~subsequent offense within a two-year period.~~

6 ~~4. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
7 ~~property of another after being requested to leave the property by a duly authorized~~  
8 ~~individual. An individual who violates this subsection is guilty of a class A~~  
9 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

10 ~~5. This section does not apply to a peace officer in the course of discharging the~~  
11 ~~peace officer's official duties.~~

12 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

- 15 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
16 or privileged to do so, the individual enters or remains in a dwelling or in highly  
17 secured premises.
- 18 2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not  
19 licensed or privileged to do so, the individual:
- 20 a. Enters or remains in or on any building, occupied structure, or storage structure,  
21 or separately secured or occupied portion thereof; or
- 22 b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
- 23 3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is  
24 not licensed or privileged to do so, the individual enters or remains in any place  
25 as to which notice against trespass is given by actual communication to the actor  
26 by the individual in charge of the premises or other authorized individual or by  
27 posting in a manner reasonably likely to come to the attention of intruders. The  
28 name of the person posting the premises must appear on each sign in legible  
29 characters.
- 30 b. Even if the conduct of the owner, tenant, or individual authorized by the owner  
31 varies from the provisions of this subdivision a, an individual may be found guilty

- 1 of violating subdivision a if the owner, tenant, or individual authorized by the  
2 owner substantially complied with this subdivision a and notice against trespass  
3 is clear from the circumstances.
- 4 c. **An individual who violates ~~this subsection~~ subdivision a is guilty of a class A**  
5 **misdemeanor for the second or subsequent offense within a two-year period.**
- 6 4. a. An individual, knowing the individual is not licensed or privileged to do so, may  
7 not enter or remain in a place as to which notice against trespass is given by  
8 posting in a manner reasonably likely to come to the attention of intruders. A  
9 violation of this subdivision is a noncriminal offense.
- 10 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
11 two hundred fifty dollars for each violation.
- 12 c. The peace officer citing the individual shall:
- 13 (1) Take the name and address of the individual; and  
14 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 15 d. The peace officer may not take the individual into custody or require the  
16 individual to proceed with the peace officer to any other location for the purpose  
17 of posting bond. The officer shall provide the individual with an envelope for use  
18 in mailing the bond.
- 19 e. An individual cited may appear before the designated official and pay the  
20 statutory fine for the violation at or before the time scheduled for hearing.
- 21 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
22 at the designated time.
- 23 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
24 days of the date of the citation and the individual cited shall indicate on the  
25 envelope or citation whether a hearing is requested. If the individual does not  
26 request a hearing within fourteen days of the date of the citation, the bond is  
27 deemed forfeited and the individual is deemed to have admitted to the violation  
28 and to have waived the right to a hearing on the issue of commission of the  
29 violation. If the individual requests a hearing, the court for the county in which the  
30 citation is issued shall issue a summons to the individual requesting the hearing  
31 notifying the individual of the date of the hearing before the designated official.

1 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
2 at the individual's request, the individual may make a statement in explanation of  
3 the individual's action. The official may at that time waive or suspend the statutory  
4 fine or bond.

5 i. A citing peace officer may not receive the statutory fine or bond.

6 j. The bond required to secure appearance before the judge must be identical to  
7 the statutory fine established in subdivision b.

8 **4.5.** An individual is guilty of a class B misdemeanor if that individual remains upon the  
9 property of another after being requested to leave the property by a duly authorized  
10 individual. An individual who violates this subsection is guilty of a class A  
11 misdemeanor for the second or subsequent offense within a two-year period.

12 **5.6.** This section does not apply to a peace officer in the course of discharging the peace  
13 officer's official duties.

14 **SECTION 2. AMENDMENT.** Section 37-17.1-22 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and**  
17 **recovery costs.**

18 ~~Whenever the governor declares a state of disaster or emergency in accordance with~~  
19 ~~section 37-17.1-05, or when the governor enters into an agreement with the federal government~~  
20 ~~following a disaster or emergency declared by the president of the United States, the director of~~  
21 ~~the division of homeland security shall determine and record the costs of the state and local~~  
22 ~~response and recovery operations in accordance with an agreement with the federal~~  
23 ~~government, in accordance with procedures established by the governor in the case of a~~  
24 ~~state-declared disaster or emergency, and in accordance with procedures established by the~~  
25 ~~state emergency response plan. If the event has met the Stafford Act minimum for a presidential~~  
26 ~~disaster declaration and for which the request is denied, the governor shall make application to~~  
27 ~~the state emergency commission for a grant of funds in an amount equal to the response and~~  
28 ~~recovery costs of the state and fifty percent of the public infrastructure recovery costs above~~  
29 ~~statutorily maintained emergency funds for counties that exceeds twice the individual county~~  
30 ~~federal declaration eligibility threshold, limited to a maximum amount available per disaster of~~  
31 ~~one million dollars and a maximum amount available per biennium of three million dollars.~~

1 ~~Immediately following the response or recovery operations, or prior thereto if determined~~  
2 ~~necessary by the governor, the governor shall make application to the state emergency~~  
3 ~~commission for a grant of funds in an amount equal to the response and recovery costs of the~~  
4 ~~state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed~~  
5 ~~upon receipt by the emergency commission of such application from the governor that a~~  
6 ~~disaster or emergency exists, and the commission immediately shall grant and direct the~~  
7 ~~transfer to the department of the governor's designated representative of an amount equal to~~  
8 ~~that certified in such application by the governor.~~

9 ~~—~~ **(Effective after June 30, 2017) Disaster or emergency response and recovery costs.**

10 Whenever the governor declares a state of disaster or emergency in accordance with  
11 section 37-17.1-05, or when the governor enters into an agreement with the federal government  
12 following a disaster or emergency declared by the president of the United States, the director of  
13 the division of homeland security shall determine and record the costs of the state response  
14 and recovery operations in accordance with an agreement with the federal government or in  
15 accordance with procedures established by the governor in the case of a state-declared  
16 disaster or emergency. Immediately following the response or recovery operations, or prior  
17 thereto if determined necessary by the governor, the governor shall make application to the  
18 state emergency commission for a grant of funds in an amount equal to the response and  
19 recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be  
20 conclusively presumed upon receipt by the emergency commission of such application from the  
21 governor that a disaster or emergency exists, and the commission immediately shall grant and  
22 direct the transfer to the department of the governors designated representative of an amount  
23 equal to that certified in such application by the governor.

24 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

①

2/14/17

17.0650.02000

Sixty-fifth  
Legislative Assembly  
of North Dakota

INTERN DRAFT AMENDMENT FOR ENGROSSED HB 1293

*in addition to LC amendment 17.0650.02002*

*Amend title*

Page 1, line 2 after the semicolon remove "and"

Page 1, line 2 after "penalty" insert "; and to declare an emergency"

Page 1, line 20 after "characters." insert "Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of this subsection an individual may be found guilty of violating section 12.1-22-03 if the owner, tenant, or individual authorized by the owner substantially complied with this subsection and notice against trespass is clear from the circumstances."

*After the subsection 5 insert:*

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

2

2/14/17

17.0650.02005

FIRST ENGROSSMENT

Sixty-fifth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1293

Introduced by

Representatives Grueneich, Dockter, Headland, K. Koppelman, Lefor, Nathe, Oliver, M.  
Ruby, Satrom, Seibel

Senator Wanzek

1 A BILL ~~for an Act to amend and reenact section 12.1-22-03 of the North Dakota Century Code,~~  
2 ~~relating to trespassing on posted property; and to provide a penalty for an Act to amend and~~  
3 ~~reenact sections 12.1-22-03 and 37-17.1-22 of the of the North Dakota Century Code, relating~~  
4 ~~to trespassing on posted property and disaster and emergency response recovery costs; to~~  
5 ~~provide a penalty; and to declare an emergency.~~

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

7 ~~SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is~~  
8 ~~amended and reenacted as follows:~~

9 ~~12.1-22-03. Criminal trespass - Noncriminal offense on posted property.~~

10 ~~1. An individual is guilty of a class C felony if, knowing that that individual is not licensed~~  
11 ~~or privileged to do so, the individual enters or remains in a dwelling or in highly~~  
12 ~~secured premises.~~

13 ~~2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not~~  
14 ~~licensed or privileged to do so, the individual:~~

15 ~~a. Enters or remains in or on any building, occupied structure, or storage structure,~~  
16 ~~or separately secured or occupied portion thereof; or~~

17 ~~b. Enters or remains in any place so enclosed as manifestly to exclude intruders.~~

18 ~~3. An individual is guilty of a class B misdemeanor if, knowing that that individual is not~~  
19 ~~licensed or privileged to do so, the individual enters or remains in any place as to~~  
20 ~~which notice against trespass is given by actual communication to the actor by the~~  
21 ~~individual in charge of the premises or other authorized individual or by posting in a~~  
22 ~~manner reasonably likely to come to the attention of intruders. The name of the person~~  
23 ~~posting the premises must appear on each sign in legible characters, knowing the~~



1 individual is not licensed or privileged to do so, may not enter or remain in a place as  
2 to which notice against trespass is given by posting in a manner reasonably likely to  
3 come to the attention of intruders. The name of the person posting the premises must  
4 appear on each sign in legible characters. A violation of this subsection is a  
5 noncriminal offense.

6 ~~a. A peace officer shall cite an individual who violates this subsection with a fine of~~  
7 ~~two hundred fifty dollars for each violation.~~

8 ~~b. The peace officer citing the individual shall:~~

9 ~~(1) Take the name and address of the individual; and~~

10 ~~(2) Notify the individual of the right to request a hearing if posting bond by mail.~~

11 ~~c. The peace officer may not take the individual into custody or require the~~  
12 ~~individual to proceed with the peace officer to any other location for the purpose~~  
13 ~~of posting bond. The officer shall provide the individual with an envelope for use~~  
14 ~~in mailing the bond.~~

15 ~~d. An individual cited may appear before the designated official and pay the~~  
16 ~~statutory fine for the violation at or before the time scheduled for hearing.~~

17 ~~e. If the individual has posted bond, the individual may forfeit bond by not appearing~~  
18 ~~at the designated time.~~

19 ~~f. If the individual posts bond by mail, the bond must be submitted within fourteen~~  
20 ~~days of the date of the citation and the individual cited shall indicate on the~~  
21 ~~envelope or citation whether a hearing is requested. If the individual does not~~  
22 ~~request a hearing within fourteen days of the date of the citation, the bond is~~  
23 ~~deemed forfeited and the violation admitted. If the individual requests a hearing,~~  
24 ~~the court for the county in which the citation is issued shall issue a summons to~~  
25 ~~the individual requesting the hearing notifying the individual of the date of the~~  
26 ~~hearing before the designated official.~~

27 ~~g. Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~  
28 ~~at the individual's request, the individual may make a statement in explanation of~~  
29 ~~the individual's action. The official may at that time waive or suspend the statutory~~  
30 ~~fine or bond. If the individual cited follows the foregoing procedures, the individual~~

1 ~~is deemed to have admitted the violation and to have waived the right to a~~  
2 ~~hearing on the issue of commission of the violation.~~

3 ~~h. A citing peace officer may not receive the statutory fine or bond. An individual~~  
4 ~~who violates this subsection is guilty of a class A misdemeanor for the second or~~  
5 ~~subsequent offense within a two-year period.~~

6 ~~4. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
7 ~~property of another after being requested to leave the property by a duly authorized~~  
8 ~~individual. An individual who violates this subsection is guilty of a class A~~  
9 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

10 ~~5. This section does not apply to a peace officer in the course of discharging the~~  
11 ~~peace officer's official duties.~~

12 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

- 15 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
16 or privileged to do so, the individual enters or remains in a dwelling or in highly  
17 secured premises.
- 18 2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not  
19 licensed or privileged to do so, the individual:
- 20 a. Enters or remains in or on any building, occupied structure, or storage structure,  
21 or separately secured or occupied portion thereof; or
- 22 b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
- 23 3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is  
24 not licensed or privileged to do so, the individual enters or remains in any place  
25 as to which notice against trespass is given by actual communication to the actor  
26 by the individual in charge of the premises or other authorized individual or by  
27 posting in a manner reasonably likely to come to the attention of intruders. The  
28 name of the person posting the premises must appear on each sign in legible  
29 characters.
- 30 b. Even if the conduct of the owner, tenant, or individual authorized by the owner  
31 varies from the provisions of this subdivision a, an individual may be found guilty

1 of violating subdivision a if the owner, tenant, or individual authorized by the  
2 owner substantially complied with this subdivision a and notice against trespass  
3 is clear from the circumstances.

4 c. An individual who violates ~~this subsection~~ subdivision a is guilty of a class A  
5 misdemeanor for the second or subsequent offense within a two-year period.

6 4. a. An individual, knowing the individual is not licensed or privileged to do so, may  
7 not enter or remain in a place as to which notice against trespass is given by  
8 posting in a manner reasonably likely to come to the attention of intruders. A  
9 violation of this subdivision is a noncriminal offense.

10 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
11 two hundred fifty dollars for each violation.

12 c. The peace officer citing the individual shall:

13 (1) Take the name and address of the individual; and

14 (2) Notify the individual of the right to request a hearing if posting bond by mail.

15 d. The peace officer may not take the individual into custody or require the  
16 individual to proceed with the peace officer to any other location for the purpose  
17 of posting bond. The officer shall provide the individual with an envelope for use  
18 in mailing the bond.

19 e. An individual cited may appear before the designated official and pay the  
20 statutory fine for the violation at or before the time scheduled for hearing.

21 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
22 at the designated time.

23 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
24 days of the date of the citation and the individual cited shall indicate on the  
25 envelope or citation whether a hearing is requested. If the individual does not  
26 request a hearing within fourteen days of the date of the citation, the bond is  
27 deemed forfeited and the individual is deemed to have admitted to the violation  
28 and to have waived the right to a hearing on the issue of commission of the  
29 violation. If the individual requests a hearing, the court for the county in which the  
30 citation is issued shall issue a summons to the individual requesting the hearing  
31 notifying the individual of the date of the hearing before the designated official.

1 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
2 at the individual's request, the individual may make a statement in explanation of  
3 the individual's action. The official may at that time waive or suspend the statutory  
4 fine or bond.

5 i. A citing peace officer may not receive the statutory fine or bond.

6 j. The bond required to secure appearance before the judge must be identical to  
7 the statutory fine established in subdivision b.

8 ~~4.5.~~ An individual is guilty of a class B misdemeanor if that individual remains upon the  
9 property of another after being requested to leave the property by a duly authorized  
10 individual. An individual who violates this subsection is guilty of a class A  
11 misdemeanor for the second or subsequent offense within a two-year period.

12 ~~5.6.~~ This section does not apply to a peace officer in the course of discharging the peace  
13 officer's official duties.

14 **SECTION 2. AMENDMENT.** Section 37-17.1-22 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and**  
17 **recovery costs.**

18 ~~Whenever the governor declares a state of disaster or emergency in accordance with~~  
19 ~~section 37-17.1-05, or when the governor enters into an agreement with the federal government~~  
20 ~~following a disaster or emergency declared by the president of the United States, the director of~~  
21 ~~the division of homeland security shall determine and record the costs of the state and local~~  
22 ~~response and recovery operations in accordance with an agreement with the federal~~  
23 ~~government, in accordance with procedures established by the governor in the case of a~~  
24 ~~state-declared disaster or emergency, and in accordance with procedures established by the~~  
25 ~~state emergency response plan. If the event has met the Stafford Act minimum for a presidential~~  
26 ~~disaster declaration and for which the request is denied, the governor shall make application to~~  
27 ~~the state emergency commission for a grant of funds in an amount equal to the response and~~  
28 ~~recovery costs of the state and fifty percent of the public infrastructure recovery costs above~~  
29 ~~statutorily maintained emergency funds for counties that exceeds twice the individual county~~  
30 ~~federal declaration eligibility threshold, limited to a maximum amount available per disaster of~~  
31 ~~one million dollars and a maximum amount available per biennium of three million dollars.~~

1 ~~Immediately following the response or recovery operations, or prior thereto if determined~~  
2 ~~necessary by the governor, the governor shall make application to the state emergency~~  
3 ~~commission for a grant of funds in an amount equal to the response and recovery costs of the~~  
4 ~~state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed~~  
5 ~~upon receipt by the emergency commission of such application from the governor that a~~  
6 ~~disaster or emergency exists, and the commission immediately shall grant and direct the~~  
7 ~~transfer to the department of the governor's designated representative of an amount equal to~~  
8 ~~that certified in such application by the governor.~~

9 ~~—~~ **(Effective after June 30, 2017) Disaster or emergency response and recovery costs.**

10 Whenever the governor declares a state of disaster or emergency in accordance with  
11 section 37-17.1-05, or when the governor enters into an agreement with the federal government  
12 following a disaster or emergency declared by the president of the United States, the director of  
13 the division of homeland security shall determine and record the costs of the state response  
14 and recovery operations in accordance with an agreement with the federal government or in  
15 accordance with procedures established by the governor in the case of a state-declared  
16 disaster or emergency. Immediately following the response or recovery operations, or prior  
17 thereto if determined necessary by the governor, the governor shall make application to the  
18 state emergency commission for a grant of funds in an amount equal to the response and  
19 recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be  
20 conclusively presumed upon receipt by the emergency commission of such application from the  
21 governor that a disaster or emergency exists, and the commission immediately shall grant and  
22 direct the transfer to the department of the governors designated representative of an amount  
23 equal to that certified in such application by the governor.

24 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.