

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2127

Introduced by

Senators Heitkamp, Thane

(At the request of the Department of Corrections and Rehabilitation)

1 A BILL for an Act to amend and reenact sections 12-44.1-01, 12-44.1-02, 12-44.1-03,
2 12-4.1-04, 12-44.1-05, 12-44.1-06, 12-44.1-06.1, 12-44.1-07, 12-44.1-08, 12-44.1-09,
3 12-44.1-10, 12-44.1-11, 12-44.1-12, 12-44.1-13, 12-44.1-14, 12-44.1-15, 12-44.1-17,
4 12-44.1-18, 12-44.1-18.1, 12-44.1-18.2, 12-44.1-19, 12-44.1-20, 12-44.1-21, 12-44.1-22,
5 12-44.1-24, 12-44.1-25, 12-44.1-26, and 12-44.1-27, relating to correctional facilities; and to
6 repeal sections 12-44.1-16 and 12-44.1-23, relating to jails and regional corrections centers;
7 and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 12-44.1-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **12-44.1-01. Definitions.** As used in this chapter:

- 12 1. ~~"City jail" means a confinement facility established and maintained by a city.~~
13 2. ~~"County jail" means a confinement facility established and maintained by a county.~~
14 "Correctional facility" means a city or county jail or detention center, regional
15 corrections center, or juvenile detention center for the detention or confinement of
16 persons in accordance with law. The use of the term does not imply and may not
17 be used to require the provision of services including treatment, counseling,
18 vocational, or educational services, except as may otherwise be required or
19 provided for under this chapter.
- 20 ~~3.~~ 2. "Inmate" means any person, whether sentenced or unsentenced, who is detained
21 or confined in a jail, regional corrections center, or juvenile detention center
22 correctional facility.
- 23 ~~4.~~ 3. "Jail" means a correctional facility, including a county or city jail or a regional
24 corrections center.

- 1 5- 4. "~~Jail administrator~~" "Administrator" means the sheriff, chief of police, administrator,
2 superintendent, director, or other individual serving as the chief executive officer of
3 a ~~jail, regional corrections center, or juvenile detention center~~ correctional facility.
- 4 6- 5. "~~Jail~~" "Correctional facility staff" means ~~eustodial~~ correctional personnel with titles
5 such as jailer, deputy, counselor, correctional officer, or any other title, whose
6 duties include the ongoing supervision of the inmates in a ~~jail, regional corrections~~
7 ~~center, or juvenile detention center~~ correctional facility.
- 8 7- 6. "Juvenile detention center" means a publicly or privately established and
9 maintained correctional facility for the ~~confinement~~ detention of ~~juvenile inmates~~
10 juveniles. The term does not include the North Dakota youth correctional center.
- 11 8- 7. "Regional corrections center" means a correctional facility established and
12 maintained by more than one county or city, or a combination of counties and
13 cities, for the confinement of ~~their inmates, or a county or city facility contracting to~~
14 ~~confine the inmates of other counties and cities~~.
- 15 8. "Trained correctional facility staff" means correctional personnel who have
16 completed a course of training approved by the department of corrections and
17 rehabilitation.

18 **SECTION 2. AMENDMENT.** Section 12-44.1-02 of the 1995 Supplement to the North
19 Dakota Century Code is amended and reenacted as follows:

20 **12-44.1-02. Establishing ~~jails~~ correctional facilities - ~~Jail~~ Correctional facility**
21 **contracts - Regional corrections centers.** For the confinement of lawfully committed
22 persons, the governing body of a county or city shall do or shall participate in the doing of, one
23 of the following:

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

1 A county or city may ~~additionally~~ contract with a county or city of another state for the
2 confinement of lawfully committed county or city inmates from that state in a North Dakota ~~jail~~
3 ~~or juvenile detention center~~ correctional facility, or for the confinement of lawfully committed
4 North Dakota inmates in a county or city correctional facility of such other state. A city or
5 county may contract with another correctional facility in this state for correctional services for
6 purposes of safety, security, health and medical reasons, or for correctional facility
7 administration. A city or county may contract for the confinement of inmates lawfully sentenced
8 by a tribal court. A city or county may contract for ~~adult jail services and juvenile detention~~
9 correctional facility services with a privately operated ~~jail facility or juvenile detention center~~
10 correctional facility. Contracts with private agencies providing ~~adult jail or juvenile detention~~
11 correctional facility services may be entered into for up to seven years.

12 **SECTION 3. AMENDMENT.** Section 12-44.1-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12-44.1-03. Safety and sanitation.**

- 15 1. Each ~~jail~~ correctional facility shall comply with state and local fire, sanitation,
16 safety, and health codes.
- 17 2. The ~~governing body~~ administrator of a ~~jail~~ correctional facility, to ensure adequate
18 fire protection, shall install firefighting equipment at appropriate locations
19 throughout the ~~jail~~ correctional facility.
- 20 3. Each ~~jail~~ correctional facility shall have a smoke detection system approved by the
21 state fire marshal and tested on a regular basis.
- 22 4. Designated exits ~~shall~~ must permit prompt evacuation of inmates and ~~jail~~
23 correctional facility staff in an emergency.

24 **SECTION 4. AMENDMENT.** Section 12-44.1-04 of the 1995 Supplement to the North
25 Dakota Century Code is amended and reenacted as follows:

26 **12-44.1-04. Administration - Organization - Management.** The ~~governing body~~
27 administrator of each ~~jail~~ correctional facility shall:

- 28 1. Formulate an operations manual, available to all ~~jail~~ correctional facility staff, which
29 delineates the written policies and procedures for operating and maintaining the ~~jail~~
30 correctional facility.

- 1 2. Review and update all policies and procedures in the operations manual at least
2 annually.
- 3 3. Specify ~~a single jail~~ an administrator in the operations manual to whom all ~~jail~~
4 correctional facility staff are responsible. The operations manual shall include the
5 ~~jail~~ administrator's duties, responsibilities, and authority for the management of the
6 ~~jail~~ correctional facility staff, inmates, programs, and physical plant.
- 7 4. Ensure that ~~all full-time jail~~ correctional facility staff who work in direct and
8 continuing contact with inmates receive ~~jail management~~ correctional facility
9 training as determined and ~~funded~~ approved by the department of corrections and
10 rehabilitation ~~or such other training as approved by the department of corrections~~
11 and rehabilitation.

12 **SECTION 5. AMENDMENT.** Section 12-44.1-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12-44.1-05. Meal payments.** ~~A jail~~ An administrator or jail correctional facility staff
15 member receiving lump sum monthly payments for providing inmate meals shall submit an
16 itemized account of the meal expenses to the governing body of the ~~jail~~ correctional facility.
17 Any amount of the monthly payment in excess of the itemized account shall be returned to the
18 general operating fund or be given as salary to the person providing the meals, as determined
19 by the governing body of the ~~jail~~ correctional facility.

20 **SECTION 6. AMENDMENT.** Section 12-44.1-06 of the 1995 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **12-44.1-06. Grades of jail correctional facilities.**

- 23 1. The department of corrections and rehabilitation shall, following inspection
24 pursuant to section 12-44.1-24, grade ~~jails~~ correctional facilities as to length of
25 allowable inmate confinement based upon construction, size, and usage, as
26 follows:
 - 27 a. "Grade one" means a ~~jail~~ correctional facility for confining inmates not more
28 than one year.
 - 29 b. "Grade two" means a ~~jail~~ correctional facility for confining inmates not more
30 than ninety days.

1 c. "Grade three" means a ~~jail~~ correctional facility for confining inmates not more
2 than ninety-six hours.

3 2. The length of confinement of a prisoner may be temporarily increased on a
4 case-by-case basis in grade one and grade two ~~jails~~ correctional facilities upon the
5 request of the ~~jail~~ administrator and the approval of the department of corrections
6 and rehabilitation.

7 **SECTION 7. AMENDMENT.** Section 12-44.1-06.1 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **12-44.1-06.1. Jail Correctional facilities standards.** Grade two and grade three ~~jails~~
10 correctional facilities do not need to provide outdoor recreation areas, ~~contact visitation areas,~~
11 or exercise rooms separate from dayrooms. Correctional facilities may allow contact visitation
12 subject to the safety, security, and administration requirements of the correctional facility.

13 **SECTION 8. AMENDMENT.** Section 12-44.1-07 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12-44.1-07. Who may be confined in jail correctional facilities.** The following
16 persons may be confined in a ~~jail~~ correctional facility:

- 17 1. Persons charged with offenses or ordered by a court to be detained for trial.
18 2. Persons committed by a court to confinement in order to secure their attendance
19 as witnesses at the trial of any criminal cause.
20 3. Persons sentenced to imprisonment upon conviction of an offense, and any other
21 person committed or detained as authorized by law.

22 **SECTION 9. AMENDMENT.** Section 12-44.1-08 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **12-44.1-08. Confinement of state and federal inmates.**

- 25 1. Grade one ~~jails~~ correctional facilities may contract for the confinement of ~~persons~~
26 sentenced to imprisonment in the state penitentiary offenders in the custody of the
27 department of corrections and rehabilitation if sufficient room is not available at the
28 penitentiary, for purposes of safety, security, discipline, medical care, or when the
29 department of corrections and rehabilitation determines it may be in the best
30 interests of the offender or the department of corrections and rehabilitation.

- 1 2. ~~All jails,~~ A correctional facility to which ~~any a~~ a person is sent or committed by legal
2 process issued by or under the authority of the United States; shall receive such
3 ~~inmate person~~ into custody for safe detention until discharged under federal law.
- 4 3. ~~The United States shall be charged, for the confinement of its inmates, the amount~~
5 ~~actually required and expended by the jail maintaining the federal inmates. A~~
6 correctional facility detaining or confining federal inmates is entitled to
7 compensation in accordance with fee schedules established by the United States.
- 8 4. ~~Repealed by S.L. 1985, ch. 169, § 3.~~
- 9 5. ~~Whenever required to do so by any United States officer, a jail administrator or jail~~
10 ~~staff member shall make out under oath a list of federal inmates in custody, with~~
11 ~~the date of commitment, by whom committed, and for what offenses. Such list~~
12 ~~shall be transmitted to the United States district court judge of the district in which~~
13 ~~the jail is located.~~
- 14 6. ~~Any~~ A grade one or grade two ~~jail~~ correctional facility may be used for the
15 ~~safekeeping~~ detention of a fugitive from justice in accordance with any act of
16 Congress ~~or the laws of another state. Such jail shall be~~ The correctional facility is
17 entitled to reasonable compensation from the officer or jurisdiction regarding
18 custody of the fugitive.

19 **SECTION 10. AMENDMENT.** Section 12-44.1-09 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **12-44.1-09. Housing of inmates.** In grade one and grade two ~~jails~~ correctional
22 facilities and, where practicable, in grade three ~~jails~~ correctional facilities, the following groups
23 of inmates must be housed separately from each other:

- 24 1. Female inmates from male inmates.
- 25 2. Juveniles from adults.
- 26 3. Persons detained for hearing or trial from inmates under sentence of
27 imprisonment, unless authorized to be housed together by the ~~jail~~ administrator for
28 security, order, or rehabilitation.
- 29 4. Persons detained for hearing or trial or under sentence of imprisonment from
30 ~~detained witnesses and other persons detained under civil commitment~~ persons

1 otherwise detained by order of the court, unless authorized to be housed together
2 by the jail administrator for security, order, or rehabilitation.

3 5. ~~Mentally disturbed inmates and other inmates with special needs as determined by~~
4 ~~the jail administrator from the remainder of the jail population, unless authorized to~~
5 ~~be housed together by the jail administrator for security, order, or rehabilitation.~~

6 Inmates who may have special needs as determined by the correctional facility or
7 whose behavior may present a serious threat to the safety or security of the
8 correctional facility, the staff, the inmate, or other inmates.

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

12 **SECTION 11. AMENDMENT.** Section 12-44.1-10 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **12-44.1-10. Detained witnesses and pretrial detainees.** Detained witnesses and
15 persons held in custody awaiting arraignment or trial ~~shall~~ may not be restricted in their
16 activities to any extent greater than required to maintain order and security and to assure
17 appearance at arraignment or trial. Witnesses and pretrial detainees shall not be required to do
18 labor other than keeping their living areas clean nor shall they be required to participate in jail
19 correctional facility programs.

20 **SECTION 12. AMENDMENT.** Section 12-44.1-11 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **12-44.1-11. Commitment papers - Copies - Endorsement.** When an inmate is
23 confined by virtue of any process directed to the jail administrator and the process requires a
24 return to the court from which it was issued, the jail administrator shall keep a copy of the
25 process with the return made thereon. The copy, certified by the jail administrator, ~~shall be~~ is
26 prima facie evidence of ~~his~~ the administrator's right to retain the inmate in custody. All ~~such~~
27 instruments or copies by which an inmate is committed or released shall be endorsed and filed
28 by the jail administrator. The file and its contents shall be delivered to the jail administrator's
29 successor.

30 **SECTION 13. AMENDMENT.** Section 12-44.1-12 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **12-44.1-12. Inmate personal property.** A written, itemized inventory of all personal
2 property taken from an inmate at the time of admission shall be made by ~~jail~~ correctional facility
3 staff. ~~Such~~ The property, including money and other valuables, shall be secured and the
4 inmate given a receipt for all property to be held until the inmate's release unless the inmate
5 requests a different disposition in writing. Upon release, the items of inmate personal property
6 shall be compared with the inventory list, and the inmate shall sign a receipt for the property's
7 return. If the inmate is released for transfer to another ~~jail~~ or correctional facility, the
8 correctional officer transporting the inmate shall sign the receipt. The releasing ~~jail~~ correctional
9 facility shall maintain a copy of the property receipt for its files.

10 **SECTION 14. AMENDMENT.** Section 12-44.1-13 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **12-44.1-13. Supervision of inmates.**

- 13 1. Inmates shall be supervised on a twenty-four-hour basis by trained ~~jail~~ correctional
14 facility staff.
- 15 2. ~~Jail~~ Correctional facility staff shall be located in such proximity to inmate living
16 areas to permit the staff to hear and respond promptly to calls for help.
- 17 3. Each ~~jail~~ correctional facility shall provide for the personal observation of inmates
18 on an irregular but frequent schedule.
- 19 4. Each ~~jail~~ correctional facility shall maintain sufficient staff to perform all functions
20 relating to the security, control, custody, and supervision of inmates.
- 21 5. A ~~matron~~ correctional facility female staff member shall be available at all times
22 during which a female inmate is confined.
- 23 6. Inmates shall be prohibited from supervising, controlling, or exerting any authority
24 over other inmates.
- 25 7. The ~~jail administrator~~ correctional facility shall maintain a daily written record of
26 information concerning inmates ~~as prescribed by rule~~.

27 **SECTION 15. AMENDMENT.** Section 12-44.1-14 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12-44.1-14. Inmate rights.** ~~The governing body~~ Subject to reasonable safety, security,
30 discipline, and correctional facility administration requirements, the administrator of each ~~jail~~
31 correctional facility shall:

- 1 1. Ensure ~~and facilitate the right of~~ inmates ~~to~~ have confidential access to attorneys
- 2 and their authorized representatives.
- 3 2. Ensure that inmates are not subjected to discrimination based on race, national
- 4 origin, color, creed, sex, economic status, or political belief.
- 5 3. Ensure equal access by male and female inmates to programs and services
- 6 available through the correctional facility.
- 7 4. Ensure access to mail, telephone use, and visitors.
- 8 5. Ensure that inmates are properly fed, clothed, and housed.
- 9 6. Ensure that inmates have adequate medical care.
- 10 7. Ensure that inmates may reasonably exercise their religious beliefs.

11 **SECTION 16. AMENDMENT.** Section 12-44.1-15 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **12-44.1-15. Searches.** Searches of inmates ~~should~~ may only be conducted:

- 14 1. ~~Be conducted so as to avoid~~ Without undue or unnecessary force,
- 15 embarrassment, or indignity to the ~~individual~~ person searched.
- 16 2. ~~Be conducted no more frequently than~~ When reasonably necessary to control
- 17 contraband in the institution or to recover missing or stolen property.

18 **SECTION 17. AMENDMENT.** Section 12-44.1-17 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **12-44.1-17. Inmate educational and counseling programs.** ~~The governing body of~~
21 ~~each grade one and grade two jail shall formulate a plan whereby~~ A correctional facility may
22 utilize the resources of the community ~~are utilized~~ to provide inmates with available
23 educational, vocational, counseling, and work release opportunities. ~~Each jail administrator~~
24 ~~shall~~ A correctional facility may, if possible, and subject to reasonable safety, security,
25 discipline, and correctional facility administration requirements, provide opportunities for access
26 to available religious, mental health, alcoholism, and addiction counseling by inmates desirous
27 of such counseling.

28 **SECTION 18. AMENDMENT.** Section 12-44.1-18 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **12-44.1-18. Inmate work programs.** ~~The governing body of a grade one jail shall~~ A
31 correctional facility may maintain a written inmate work assignment plan that provides for

1 inmate employment, subject to the number of work opportunities available and the maintenance
2 of ~~jail security~~ reasonable safety, security, discipline, and correctional facility administration
3 requirements. The inmate work plan ~~shall~~ may provide for inmate employment in ~~jail~~
4 correctional facility maintenance and operation, in public works projects, ~~and or~~ in various
5 community service projects.

6 **SECTION 19. AMENDMENT.** Section 12-44.1-18.1 of the North Dakota Century Code
7 is amended and reenacted as follows:

8 **12-44.1-18.1. Inmate work release program.** ~~The governing body of a city or county,~~
9 ~~with the concurrence of affected parties,~~ A correctional facility may provide for a work release
10 program for inmates ~~confined in a city or county penal institution~~ unless the court has ordered
11 that an inmate may not receive work release. Work release projects may include public service
12 and community service projects, and may utilize any particular skill or trade of participating
13 inmates. ~~At the discretion of the judge with jurisdiction over a participating inmate, for every~~
14 ~~eight hours of work by a participating inmate, the inmate's period of confinement shall be~~
15 ~~reduced by two days.~~ The ~~governing body~~ correctional facility shall take measures to maintain
16 ~~jail security among participating inmates~~ correctional facility security and safety and to protect
17 the safety of the public.

18 **SECTION 20. AMENDMENT.** Section 12-44.1-18.2 of the 1995 Supplement to the
19 North Dakota Century Code is amended and reenacted as follows:

20 **12-44.1-18.2. Work release program - Room and board costs to be paid by**
21 **inmate.** Any inmate who participates in a work release program shall pay the ~~governing body~~
22 ~~of the jail or regional correction center~~ correctional facility for the room and board costs incurred
23 by the inmate while confined in the ~~jail or regional correction~~ correctional facility. The ~~jail~~
24 administrator shall determine the amount of meal and lodging costs to be paid by the inmate.
25 The amount may not exceed ten dollars per day or the funds earned by the inmate, whichever
26 is less.

27 **SECTION 21. AMENDMENT.** Section 12-44.1-19 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12-44.1-19. Removal of inmate in emergency not an escape.** If a ~~jail~~ correctional
30 facility or any adjoining building shall be on fire or another emergency occurs, and the inmates
31 may be exposed to danger, the ~~jail~~ correctional facility staff shall remove the inmates to a place

1 of safety, and there confine them as long as necessary to avoid the danger. The removal and
2 confinement shall not be deemed an escape of such inmates.

3 **SECTION 22. AMENDMENT.** Section 12-44.1-20 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **12-44.1-20. Punishment of inmate.** ~~A jail administrator or jail staff member having~~
6 ~~charge of an inmate under this chapter may use only such means as are necessary to control~~
7 ~~inmate behavior. If an inmate confined in any jail is disorderly or willfully destroys jail property,~~
8 ~~the jail administrator may cause the inmate to be secured or kept in solitary confinement for not~~
9 ~~more than three days for any one offense. A correctional facility shall adopt rules for safety,~~
10 ~~security, discipline, and correctional facility administration. If an inmate violates any of the rules~~
11 ~~of a correctional facility, the correctional facility may impose disciplinary sanctions in~~
12 ~~accordance with its rules.~~

13 **SECTION 23. AMENDMENT.** Section 12-44.1-21 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **12-44.1-21. Prohibited acts.** ~~A jail administrator or a member of the jail staff shall be~~
16 ~~guilty of a class A misdemeanor if he or she knowingly:~~

- 17 1. ~~Places or keeps male and female inmates together in the same cell unless they~~
18 ~~are husband and wife. It is unlawful to deliver or administer any alcoholic~~
19 ~~beverage or controlled substance to a person detained in a correctional facility~~
20 ~~except for the delivery or administration of controlled substances or alcoholic~~
21 ~~beverages in accordance with the orders or prescription of a licensed physician~~
22 ~~and the approval, except in emergency circumstances, of the correctional facility~~
23 ~~administrator.~~
- 24 2. ~~Gives, sells, or delivers to any inmate, for any cause whatever, any alcoholic~~
25 ~~beverage unless prescribed by a physician. Any other person, other than a~~
26 ~~physician or person under the direction of a physician, who gives, sells, or delivers~~
27 ~~an alcoholic beverage to an inmate shall be guilty of a class A misdemeanor. A~~
28 ~~person detained in a correctional facility may not possess any controlled substance~~
29 ~~or alcoholic beverage unless the substance or beverage is prescribed in~~
30 ~~accordance with the prescription or orders of a licensed physician, and the~~

- 1 approval, except in emergency circumstances, of the correctional facility
2 administrator.
- 3 3. ~~Uses corporal punishment against an inmate.~~ A person, other than an official or
4 employee of the correctional facility, who violates subsection 1 by delivering or
5 administering a controlled substance is guilty of a class B felony. An official or
6 employee of the correctional facility who violates subsection 1 by delivering or
7 administering a controlled substance is guilty of a class A felony. A person who
8 violates subsection 1 by delivering alcoholic beverages is guilty of a class A
9 misdemeanor.
- 10 4. ~~Uses physical force except as necessary for self defense or control of inmates,~~
11 ~~protection of another person from imminent physical attack, or the prevention of~~
12 ~~riot or escape.~~ A person who violates subsection 2 by possessing a controlled
13 substance is guilty of a class B felony. A person who violates subsection 2 by
14 possessing alcoholic beverages is guilty of a class A misdemeanor.
- 15 5. As used in this section, "controlled substance" is as defined in subsection 6 of
16 section 19-03.1-01, and includes counterfeit substances as defined in subsection 7
17 of section 19-03.1-01.

18 **SECTION 24. AMENDMENT.** Section 12-44.1-22 of the 1995 Supplement to the North
19 Dakota Century Code is amended and reenacted as follows:

20 **12-44.1-22. Jail Correctional facility register - Contents.** Each jail administrator is
21 responsible for a jail correctional facility register in which must be entered such inmate
22 information on such forms as the department of corrections and rehabilitation shall prescribe by
23 rule.

24 **SECTION 25. AMENDMENT.** Section 12-44.1-24 of the 1995 Supplement to the North
25 Dakota Century Code is amended and reenacted as follows:

26 **12-44.1-24. Jail Correctional facility standards - Inspections.** The department of
27 corrections and rehabilitation shall:

- 28 1. Prescribe rules establishing minimum standards for the construction, operation,
29 and maintenance of public or private ~~juvenile detention centers, county and city~~
30 ~~jails, and regional corrections centers~~ correctional facilities.
- 31 2. Prescribe rules for the care and treatment of inmates.

- 1 3. Cause rules and regulations to be made available to inmates or be posted in at
2 least one conspicuous place in each ~~jail, juvenile detention center, or regional~~
3 ~~corrections center and in each cell or cellblock where they may be read by inmates~~
4 correctional facility.
- 5 4. Appoint a ~~jail~~ correctional facility inspector qualified by special experience,
6 education, or training to inspect each ~~jail, juvenile detention center, and regional~~
7 ~~corrections center~~ correctional facility at least once each year to determine if the
8 rules and regulations have been complied with. Inspection ~~shall~~ must include, ~~but~~
9 ~~not be limited to~~, health and safety, fire and life safety, security, rehabilitation
10 programs, recreation, treatment of persons confined, and personnel training.

11 **SECTION 26. AMENDMENT.** Section 12-44.1-25 of the 1995 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **12-44.1-25. Inspection report - Notice of noncompliance - Hearing.**

- 14 1. A written report of each inspection pursuant to section 12-44.1-24 shall be made
15 by the ~~jail~~ correctional facility inspector within thirty days following each inspection.
- 16 2. Copies of the report must be sent by the ~~jail~~ correctional facility inspector to the
17 ~~governing body administrator~~ responsible for the ~~jail, juvenile detention center, or~~
18 ~~regional corrections center~~ correctional facility and must also be submitted to the
19 department of corrections and rehabilitation for review.
- 20 3. The inspection report must specify those respects in which a ~~jail, juvenile detention~~
21 ~~center, or regional corrections center~~ correctional facility does or does not comply
22 with the required minimum standards and rules. The inspection report of
23 noncompliance must specify the time limits within which such standards or rules
24 are to be met, with consideration being given to the magnitude or seriousness of
25 the deficiencies and their potential effects on the health and safety of inmates, the
26 cost of correction, and other information deemed relevant by the department of
27 corrections and rehabilitation.
- 28 4. Where the nature and extent of deficiencies are such that an immediate order of
29 full or partial closure is deemed necessary by the department of corrections and
30 rehabilitation to preserve the health and safety of inmates, the period of time for

1 correction may be dispensed with and an order of immediate full or partial closure
2 may be issued by the department of corrections and rehabilitation.

3 5. Within thirty days after receipt of a notice or order of immediate closure, the
4 ~~governing body administrator of a jail, juvenile detention center, or regional~~
5 ~~corrections center~~ correctional facility may request a review of the determination
6 by the department of corrections and rehabilitation pursuant to chapter 28-32. The
7 review must be heard not more than forty-five days following the request, unless
8 the period is extended by the department of corrections and rehabilitation.

9 **SECTION 27. AMENDMENT.** Section 12-44.1-26 of the 1995 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **12-44.1-26. Jail Correctional facility variances.**

12 1. ~~All jails, juvenile detention centers, and regional corrections centers~~ A correctional
13 facility shall comply with the requirements of the rules ~~and regulations promulgated~~
14 ~~adopted~~ by the department of corrections and rehabilitation unless a variance has
15 been granted by the department of corrections and rehabilitation. Any request for
16 a variance must be in writing and must cite the rule in question, the reasons for
17 requesting the variance, the period of time for the variance, and an explanation of
18 how the policy of the rule will be served without strict compliance with the rule.

19 2. The department of corrections and rehabilitation may grant a variance if it is
20 determined that:

21 a. Compliance with the rule would cause extreme hardship as a result of
22 circumstances which are unique to the ~~jail, juvenile detention center, or~~
23 ~~regional corrections center~~ correctional facility.

24 b. The ~~jail, juvenile detention center, or regional corrections center~~ ~~can and~~
25 correctional facility will substantially comply with the policy of the rule during
26 the time of the variance from the rule.

27 3. The department of corrections and rehabilitation shall give written reasons for
28 granting or denying a variance request.

29 4. In previously existing ~~jails, juvenile detention centers, or regional corrections~~
30 ~~centers~~ correctional facilities where specific rules cannot be complied with because
31 of alleged difficulty or undue hardship, exception to specific physical plant rules

1 must be made if the intent of the rule is met and security, supervision of prisoners,
2 established programs, or the safe, healthful, or efficient operation of the ~~jail,~~
3 ~~juvenile detention center, or regional corrections center~~ correctional facility is not
4 seriously affected.

5 **SECTION 28. AMENDMENT.** Section 12-44.1-27 of the 1995 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **12-44.1-27. Corrective action - Enforcement.**

- 8 1. Upon receipt of an inspection report stating noncompliance, the ~~governing body~~
9 administrator of a ~~jail, juvenile detention center, or regional corrections center~~
10 correctional facility shall promptly meet with the department of corrections and
11 rehabilitation's inspection personnel to consider the inspection report. The
12 governing body shall then initiate appropriate corrective action within ninety days
13 following receipt of the inspection report, or may voluntarily close the ~~jail, juvenile~~
14 ~~detention center, or regional corrections center~~ correctional facility or the
15 objectionable portion.
- 16 2. If the governing body of a ~~jail, juvenile detention center, or regional corrections~~
17 ~~center~~ correctional facility fails to initiate corrective action within ninety days after
18 receipt of the inspection report and notice of noncompliance, or fails to close the
19 ~~jail, juvenile detention center, or regional corrections center~~ correctional facility or
20 objectionable portion, the director of the department of corrections and
21 rehabilitation is authorized to petition the district court of the judicial district in
22 which the ~~jail, juvenile detention center, or regional corrections center~~ correctional
23 facility is located to order the initiation of corrective action or the closure of the ~~jail,~~
24 ~~juvenile detention center, or regional corrections center~~ correctional facility. The
25 petition to the district court must include the inspection report regarding the ~~jail,~~
26 ~~juvenile detention center, or regional corrections center~~ correctional facility. The
27 governing body shall have twenty days to respond to the petition and shall serve a
28 copy of the response on the director of the department of corrections and
29 rehabilitation by certified mail.
- 30 3. A hearing must be held on the petition of the department of corrections and
31 rehabilitation before the district court. An order must be rendered by the district

1 court which dismisses the petition, directs that corrective action be initiated in
2 some form by the governing body, or directs the closure of the ~~jail, juvenile~~
3 ~~detention center, or regional corrections center~~ correctional facility.

4 **SECTION 29. REPEAL.** Sections 12-44.1-16 and 12-44.1-23 of the North Dakota
5 Century Code are repealed.