

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2036**

Introduced by

Legislative Management

(Judiciary Committee)

1 A BILL for an Act to create and enact section 4.1-45-22.1 of the North Dakota Century Code,
2 relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete
3 references; to amend and reenact subsection 7 of section 12.1-31.2-01, section 14-09-00.1,
4 subsection 1 of section 14-09-06.2, subsection 2 of section 27-20-30.1, subsection 1 of section
5 27-20-45, sections 43-62-01 and 43-62-15, subsection 5 of section 53-06.1-06, section
6 57-02-08.6, subsection 7 of section 57-38-30.3, and section 57-60-14 of the North Dakota
7 Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or
8 obsolete references; and to repeal sections 4.1-55-22.1, 6-09.8-04, 6-09.11-02, and 15-08.1-09
9 and chapter 61-21.1 of the North Dakota Century Code, relating to technical corrections and
10 improper, inaccurate, redundant, missing, or obsolete references.

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

12 **SECTION 1.** Section 4.1-45-22.1 of the North Dakota Century Code is created and enacted
13 as follows:

14 **4.1-45-22.1. Facility operations and maintenance costs.**

15 Facility operations and maintenance costs, other than costs resulting from a natural
16 disaster, are to be funded by state fair association funds.

17 **SECTION 2. AMENDMENT.** Subsection 7 of section 12.1-31.2-01 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 7. A disorderly conduct restraining order must contain a conspicuous notice to the
20 respondent providing:
- 21 a. The specific conduct that constitutes a violation of the order;
 - 22 b. Notice that violation of the restraining order is a class A misdemeanor punishable
23 by imprisonment of up to ~~one year~~three hundred sixty days or a fine of up to
24 ~~twethree~~ three thousand dollars or both; and

- 1 c. Notice that a peace officer may arrest the respondent without a warrant and take
2 the respondent into custody if the peace officer has probable cause to believe the
3 respondent has violated an order issued under this section.

4 **SECTION 3. AMENDMENT.** Section 14-09-00.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-09-00.1. Definitions.**

7 As used in this chapter, unless the context otherwise requires:

- 8 1. "Decisionmaking responsibility" means the responsibility to make decisions concerning
9 the child. The term may refer to decisions on all issues or on specified issues, but not
10 child support issues.
- 11 2. "Harm" means negative changes in a child's health which occur when an individual
12 responsible for the child's welfare:
- 13 a. Inflicts, or allows to be inflicted, upon the child, physical or mental injury, including
14 injuries sustained as a result of excessive corporal punishment, or
15 b. Commits, allows to be committed, or conspires to commit, against the child, a sex
16 offense as defined in chapter 12.1-20.
- 17 3. "Parental rights and responsibilities" means all rights and responsibilities a parent has
18 concerning the parent's child.
- 19 ~~3.4.~~ "Parenting plan" means a written plan describing each parent's rights and
20 responsibilities.
- 21 ~~4.5.~~ "Parenting schedule" means the schedule of when the child is in the care of each
22 parent.
- 23 ~~5.6.~~ "Parenting time" means the time when the child is to be in the care of a parent.
- 24 ~~6.7.~~ "Primary residential responsibility" means a parent with more than fifty percent of the
25 residential responsibility.
- 26 ~~7.8.~~ "Residential responsibility" means a parent's responsibility to provide a home for the
27 child.

28 **SECTION 4. AMENDMENT.** Subsection 1 of section 14-09-06.2 of the North Dakota
29 Century Code is amended and reenacted as follows:

- 30 1. For the purpose of parental rights and responsibilities, the best interests and welfare of
31 the child is determined by the court's consideration and evaluation of all factors

1 affecting the best interests and welfare of the child. These factors include all of the
2 following when applicable:

- 3 a. The love, affection, and other emotional ties existing between the parents and
4 child and the ability of each parent to provide the child with nurture, love,
5 affection, and guidance.
- 6 b. The ability of each parent to assure that the child receives adequate food,
7 clothing, shelter, medical care, and a safe environment.
- 8 c. The child's developmental needs and the ability of each parent to meet those
9 needs, both in the present and in the future.
- 10 d. The sufficiency and stability of each parent's home environment, the impact of
11 extended family, the length of time the child has lived in each parent's home, and
12 the desirability of maintaining continuity in the child's home and community.
- 13 e. The willingness and ability of each parent to facilitate and encourage a close and
14 continuing relationship between the other parent and the child.
- 15 f. The moral fitness of the parents, as that fitness impacts the child.
- 16 g. The mental and physical health of the parents, as that health impacts the child.
- 17 h. The home, school, and community records of the child and the potential effect of
18 any change.
- 19 i. If the court finds by clear and convincing evidence that a child is of sufficient
20 maturity to make a sound judgment, the court may give substantial weight to the
21 preference of the mature child. The court also shall give due consideration to
22 other factors that may have affected the child's preference, including whether the
23 child's preference was based on undesirable or improper influences.
- 24 j. Evidence of domestic violence. In determining parental rights and responsibilities,
25 the court shall consider evidence of domestic violence. If the court finds credible
26 evidence that domestic violence has occurred, and there exists one incident of
27 domestic violence which resulted in serious bodily injury or involved the use of a
28 dangerous weapon or there exists a pattern of domestic violence within a
29 reasonable time proximate to the proceeding, this combination creates a
30 rebuttable presumption that a parent who has perpetrated domestic violence may
31 not be awarded residential responsibility for the child. This presumption may be

1 overcome only by clear and convincing evidence that the best interests of the
2 child require that parent have residential responsibility. The court shall cite
3 specific findings of fact to show that the residential responsibility best protects the
4 child and the parent or other family or household member who is the victim of
5 domestic violence. If necessary to protect the welfare of the child, residential
6 responsibility for a child may be awarded to a suitable third person, provided that
7 the person would not allow access to a violent parent except as ordered by the
8 court. If the court awards residential responsibility to a third person, the court
9 shall give priority to the child's nearest suitable adult relative. The fact that the
10 abused parent suffers from the effects of the abuse may not be grounds for
11 denying that parent residential responsibility. As used in this subdivision,
12 "domestic violence" means domestic violence as defined in section 14-07.1-01. A
13 court may consider, but is not bound by, a finding of domestic violence in another
14 proceeding under chapter 14-07.1.

- 15 k. The interaction and inter-relationship, or the potential for interaction and inter-
16 relationship, of the child with any person who resides in, is present, or frequents
17 the household of a parent and who may significantly affect the child's best
18 interests. The court shall consider that person's history of inflicting, or tendency to
19 inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily
20 injury, or assault, on other persons.
- 21 l. The making of false allegations not made in good faith, by one parent against the
22 other, of harm to a child ~~as defined in section 50-25.1-02.~~
- 23 m. Any other factors considered by the court to be relevant to a particular parental
24 rights and responsibilities dispute.

25 **SECTION 5. AMENDMENT.** Subsection 2 of section 27-20-30.1 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 2. A petition to commence an action under this section must contain information as
28 required under section 27-20-21 by supreme court rule along with an affidavit either
29 prepared by the administrative county, as determined by the department of human
30 services, or prepared by an agency or tribal council of a recognized Indian reservation
31 in North Dakota.

1 **SECTION 6. AMENDMENT.** Subsection 1 of section 27-20-45 of the North Dakota Century
2 Code is amended and reenacted as follows:

- 3 1. The petition must ~~comply with section 27-20-21~~contain information as required by
4 supreme court rule and state clearly that an order for termination of parental rights is
5 requested and that the effect will be as stated in section 27-20-46.

6 **SECTION 7. AMENDMENT.** Section 43-62-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-62-01. Definitions.**

9 As used in this chapter:

- 10 1. "Board" means the North Dakota medical imaging and radiation therapy board.
- 11 2. "Certification organization" means a national certification organization that specializes
12 in the certification and registration of medical imaging and radiation therapy technical
13 personnel and which has programs accredited by the national commission for
14 certifying agencies, American national standards institute or the international
15 organization for standardization, or other accreditation organization recognized by the
16 board.
- 17 3. "Licensed practitioner" means a licensed physician, advanced practice registered
18 nurse, chiropractor, dentist, or podiatrist.
- 19 4. "Licensee" means an individual licensed by the board to perform medical imaging or
20 radiation therapy and operate medical imaging or radiation therapy equipment,
21 including a nuclear medicine technologist, radiation therapist, radiographer, radiologist
22 assistant, sonographer, or magnetic resonance imaging technologist.
- 23 5. "Medical imaging" means the performance of any diagnostic or interventional
24 procedure or operation of medical imaging equipment intended for use in the
25 diagnosis or visualization of disease or other medical conditions in human beings,
26 including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or
27 x-rays.
- 28 6. "Medical physicist" means an individual who is certified by the American board of
29 radiology, American board of medical physics, American board of science in nuclear
30 medicine, or Canadian college of physics in medicine in radiological physics or one of
31 the subspecialties of radiological physics.

- 1 7. "Primary modality" means an individual practicing as a nuclear medicine technologist,
2 radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic
3 resonance imaging technologist.
- 4 8. "Protected health information" has the same meaning as provided under section
5 23-01.3-01.
- 6 9. "Radiation therapy" means the performance of any procedure or operation of radiation
7 therapy equipment intended for use in the treatment of disease or other medical
8 conditions in human beings.
- 9 10. "Radiation therapist" means an individual, other than a licensed practitioner or
10 authorized user, who performs procedures and applies ionizing radiation emitted from
11 x-ray machines, particle accelerators, or sealed radioactive sources to human beings
12 for therapeutic purposes.

13 **(Contingent effective date - [See note](#)) Definitions.**

14 As used in this chapter:

- 15 1. "Board" means the North Dakota medical imaging and radiation therapy board.
- 16 2. "Certification organization" means a national certification organization that specializes
17 in the certification and registration of medical imaging and radiation therapy technical
18 personnel and which has programs accredited by the national commission for
19 certifying agencies, American national standards institute or the international
20 organization for standardization, or other accreditation organization recognized by the
21 board.
- 22 3. "Licensed practitioner" means a licensed physician, advanced practice registered
23 nurse, chiropractor, dentist, or podiatrist.
- 24 4. "Licensee" means an individual licensed by the board to perform medical imaging or
25 radiation therapy and operate medical imaging or radiation therapy equipment,
26 including a nuclear medicine technologist, radiation therapist, radiographer, radiologist
27 assistant, limited x-ray machine operator, sonographer, or magnetic resonance
28 imaging technologist.
- 29 5. "Medical imaging" means the performance of any diagnostic or interventional
30 procedure or operation of medical imaging equipment intended for use in the
31 diagnosis or visualization of disease or other medical conditions in human beings,

1 including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or
2 x-rays.

3 6. "Medical physicist" means an individual who is certified by the American board of
4 radiology, American board of medical physics, American board of science in nuclear
5 medicine, or Canadian college of physics in medicine in radiological physics or one of
6 the subspecialties of radiological physics.

7 7. "Primary modality" means an individual practicing as a nuclear medicine technologist,
8 radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic
9 resonance imaging technologist.

10 8. "Protected health information" has the same meaning as provided under section
11 23-01.3-01.

12 9. "Radiation therapy" means the performance of any procedure or operation of radiation
13 therapy equipment intended for use in the treatment of disease or other medical
14 conditions in human beings.

15 10. "Radiation therapist" means an individual, other than a licensed practitioner or
16 authorized user, who performs procedures and applies ionizing radiation emitted from
17 x-ray machines, particle accelerators, or sealed radioactive sources to human beings
18 for therapeutic purposes.

19 **SECTION 8. AMENDMENT.** Section 43-62-15 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-62-15. Scope of practice.**

22 1. A license issued by the board under this chapter must specify each medical imaging or
23 radiation therapy modality for which the licensee is qualified to practice under section
24 43-62-14.

25 2. The board shall adopt by rule standards concerning scope of practice for medical
26 imaging and radiation therapy modalities, including:

- 27 a. Nuclear medicine technologist;
28 b. Radiation therapist;
29 c. Radiographer;
30 d. Radiologist assistant;
31 e. Sonographer; and

- 1 f. Magnetic resonance imaging technologist.
- 2 3. A licensee's performance of medical imaging or radiation therapy on humans for
- 3 diagnostic or therapeutic purposes must be by written, facsimile, electronic, or verbal
- 4 prescription of an individual authorized by this state to prescribe medical imaging or
- 5 radiation therapy and must be under the supervision of a licensed practitioner.
- 6 4. A licensee's performance of medical imaging and radiation therapy on humans for
- 7 diagnostic or therapeutic purposes is limited to the scope of the medical imaging and
- 8 radiation therapy modality of that license as specified under the rules adopted by the
- 9 board.

10 **(Contingent effective date - [See note](#)) Scope of practice.**

- 11 1. A license issued by the board under this chapter must specify each medical imaging or
- 12 radiation therapy modality for which the licensee is qualified to practice under section
- 13 43-62-14.
- 14 2. The board shall adopt by rule standards concerning scope of practice for medical
- 15 imaging and radiation therapy modalities, including:
- 16 a. Nuclear medicine technologist;
- 17 b. Radiation therapist;
- 18 c. Radiographer;
- 19 d. Radiologist assistant;
- 20 e. Sonographer;
- 21 f. Magnetic resonance imaging technologist; and
- 22 g. ~~X-ray~~Limited x-ray machine operator.
- 23 3. A licensee's performance of medical imaging or radiation therapy on humans for
- 24 diagnostic or therapeutic purposes must be by written, facsimile, electronic, or verbal
- 25 prescription of an individual authorized by this state to prescribe medical imaging or
- 26 radiation therapy and must be under the supervision of a licensed practitioner.
- 27 4. A licensee's performance of medical imaging and radiation therapy on humans for
- 28 diagnostic or therapeutic purposes is limited to the scope of the medical imaging and
- 29 radiation therapy modality of that license as specified under the rules adopted by the
- 30 board.

1 **SECTION 9. AMENDMENT.** Subsection 5 of section 53-06.1-06 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 5. A person is restricted from being involved in gaming and the attorney general shall
4 conduct a criminal history record check as follows:

5 a. (1) A person who has pled guilty to or been found guilty of a felony offense as
6 defined by the laws of this state, other states, or the federal government, or
7 has pled guilty to or been found guilty of a violation of this chapter, a gaming
8 rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal
9 government equivalent to offenses defined in these chapters, regardless of
10 whether the person has completed or received a deferred imposition of
11 sentence, ~~deferred prosecution~~, or suspended sentence, may not be a
12 licensed distributor, be an investor in or board member or consultant to a
13 licensed distributor, or be employed by a licensed distributor, and may not
14 be employed by a licensed organization to conduct games, for five years
15 from the date of conviction, release from incarceration, or expiration of
16 parole or probation, whichever is the latest.

17 (2) Paragraph 1 does not apply if the offense to which the person pled guilty or
18 has been found guilty is a misdemeanor and the person has received a
19 deferred imposition of sentence ~~or deferred prosecution~~ and has fully
20 complied with the terms of the deferral.

21 b. A person who has pled guilty to or been found guilty of a misdemeanor offense in
22 violation of section 6-08-16.1 or chapter 12.1-06, 12.1-23, or 12.1-24 or offenses
23 of other states, the federal government, or a municipality equivalent to these
24 offenses, regardless if the person has completed or received a suspended
25 sentence, may not be a licensed distributor or be employed by a licensed
26 distributor, and may not be employed by a licensed organization to conduct
27 games, for two years from the date of conviction, release from incarceration, or
28 expiration of parole or probation, whichever is the latest, unless the person has
29 received a deferred imposition of sentence ~~or deferred prosecution~~ and has fully
30 complied with the terms of the deferral.

1 c. Unless an employee is exempt by the gaming rules or attorney general, the
2 attorney general shall conduct a criminal history record check of each employee
3 of a licensed organization or distributor and charge a fee prescribed by section
4 12-60-16.9. The fee may be waived by the attorney general if a federal agency or
5 local law enforcement agency has done a record check. The attorney general
6 may require advance payment of any additional fee necessary to pay the cost of
7 a record check of a person for whom adequate background information sources
8 are not readily available. The advance payment must be placed in the attorney
9 general's refund fund. The unused funds must be returned to the person within
10 thirty days of the conclusion of the record check. Unless a federal or local law
11 enforcement agency conducts the record check, the attorney general shall notify
12 the organization or distributor and person of the result. The attorney general shall
13 keep the information confidential except in the proper administration of this
14 chapter or any gaming rule or to provide to an authorized law enforcement
15 agency.

16 **SECTION 10. AMENDMENT.** Section 57-02-08.6 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **57-02-08.6. Authorization for receipt of funds.**

19 The state treasurer is authorized to receive funds for ~~this~~the wetlands property tax
20 exemption program by legislative appropriation and by gift, grant, devise, or bequest of any
21 money or property from any private or public source. Funds appropriated from any source for
22 this purpose are not subject to section 54-44.1-11 and all income and moneys derived from the
23 investment of the funds must be credited to the fund for ~~this~~the wetlands property tax exemption
24 program. The director of the game and fish department, the agriculture commissioner, and the
25 state engineer shall work with the governor, the United States fish and wildlife service, nonprofit
26 conservation organizations, and any other public official or private organization or citizen to
27 develop a source of funding to implement sections 57-02-08.4 and 57-02-08.5.

28 **SECTION 11. AMENDMENT.** Subsection 7 of section 57-38-30.3 of the North Dakota
29 Century Code is amended and reenacted as follows:

- 30 7. A taxpayer filing a return under this section is entitled to the following tax credits:
31 a. Family care tax credit under section 57-38-01.20.

- 1 b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
- 2 c. Agricultural business investment tax credit under section 57-38.6-03.
- 3 d. Seed capital investment tax credit under section 57-38.5-03.
- 4 e. Planned gift tax credit under section 57-38-01.21.
- 5 f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and
- 6 57-38-01.23.
- 7 g. Internship employment tax credit under section 57-38-01.24.
- 8 h. Workforce recruitment credit under section 57-38-01.25.
- 9 i. ~~Angel fund investment tax credit under section 57-38-01.26 (effective for the first~~
- 10 ~~taxable year beginning after December 31, 2016).~~
- 11 j. Marriage penalty credit under section 57-38-01.28.
- 12 ~~k.~~j. Research and experimental expenditures under section 57-38-30.5.
- 13 ~~l.~~k. Geothermal energy device installation credit under section 57-38-01.8.
- 14 ~~m.~~l. Long-term care partnership plan premiums income tax credit under section
- 15 57-38-29.3.
- 16 ~~n.~~m. Employer tax credit for salary and related retirement plan contributions of
- 17 mobilized employees under section 57-38-01.31.
- 18 ~~o.~~ ~~Automating manufacturing processes tax credit under section 57-38-01.33~~
- 19 ~~(effective for the first five taxable years beginning after December 31, 2012).~~
- 20 ~~p.~~n. Income tax credit for passthrough entity contributions to private education
- 21 institutions under section 57-38-01.7.
- 22 ~~q.~~o. Angel investor tax credit under section 57-38-01.26.

23 **SECTION 12. AMENDMENT.** Section 57-60-14 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **57-60-14. Allocation of revenue - Continuing appropriation.**

- 26 1. The state treasurer shall no less than quarterly allocate all moneys received from all
- 27 coal conversion facilities in each county pursuant to the provisions of this chapter,
- 28 fifteen percent to the county and eighty-five percent to the state general fund, except
- 29 moneys received from the tax imposed by subsection 3 of section 57-60-02 ~~and~~
- 30 ~~through December 31, 2009, the first \$41,666.67 each month from the tax imposed by~~
- 31 ~~subsections 1 and 4 of section 57-60-02, which must be deposited in the state general~~

1 fund. From July 1, 2007, through June 30, 2009, three and one-half percent of all-
2 funds allocated to the state general fund pursuant to this chapter must be allocated to
3 the lignite research fund and after June 30, 2009, ~~five~~Five percent of all funds
4 allocated to the state general fund pursuant to this chapter must be allocated to the
5 lignite research fund, for the purposes defined in section 57-61-01.5.

6 2. Notwithstanding any other provision of law, the allocation under this section to each
7 county may not be less in each calendar year than the amount certified to the state
8 treasurer for each county under this section in the immediately preceding calendar
9 year, ~~except that through December 31, 2009, the portion of the revenue allocation to~~
10 ~~each county which is attributable to a coal gasification coal conversion facility must~~
11 ~~exclude consideration of calendar year 2001, and be based on calendar year 2000 or~~
12 ~~the appropriate year after 2001, whichever is greater.~~ For a county that has received
13 less in a calendar year than the amount certified to the state treasurer for that county
14 in the immediately preceding calendar year, not later than January tenth of the
15 following year, the county auditor shall calculate the amount that is due under this
16 subsection and submit a statement of the amount to the state treasurer. The state
17 treasurer shall verify the stated amount and make the required payment under this
18 subsection to the county, from collections received under section 57-60-02, not later
19 than March first of the following year. The funds needed to make the distribution to
20 counties under this subsection are appropriated on a continuing basis for making
21 these payments. Money received by a county under this subsection must be
22 distributed pursuant to section 57-60-15.

23 3. Notwithstanding any other provision of law, for a county in which is located a coal
24 conversion facility that was not a coal conversion facility under this chapter before
25 January 1, 2002, ~~that county must receive for calendar year 2002 at least as much~~
26 ~~under this section as was received by that county and taxing districts in that county in~~
27 ~~property taxes for that facility for taxable year 2001. For~~for years after 2002,
28 subsection 2 applies to allocations to that county under this section, except that for a
29 county described in this subsection, amounts received for any calendar year must be
30 allocated by the county in the same manner property taxes for the facility were
31 allocated for taxable year 2001.

1 **SECTION 13. REPEAL.** Sections 4.1-55-22.1, 6-09.8-04, 6-09.11-02, and 15-08.1-09 and
2 chapter 61-21.1 of the North Dakota Century Code are repealed.