

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2068
(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact subsection 1 of section 12.1-32-08 and section 29-26-22.1 of the North Dakota Century Code, relating to docketing of restitution judgments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 12.1-32-08 of the North Dakota Century Code is amended and reenacted as follows:

1. Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount of restitution. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court, unless the court states on the record, based upon the criteria in this subsection, the reason it does not order restitution or orders only partial restitution. Restitution must include payment to the owner of real property that is contaminated by the defendant in the manufacturing of methamphetamine for the cost of removing the contamination and returning the property to the property's condition before contamination and to any other person that has incurred costs in decontaminating the property. In determining whether to order restitution, the court shall take into account:
 - a. The reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2.
 - b. The ability of the defendant to restore the fruits of the criminal action or to pay monetary reparations, or to otherwise take action to restore the victim's property.
 - c. The likelihood that attaching a condition relating to restitution or reparation will serve a valid rehabilitational purpose in the case of the particular offender considered.

The court shall fix the amount of restitution or reparation, which may not exceed an amount the defendant can or will be able to pay, and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, unless the court directs otherwise, be filed without filing fee, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced. Upon thirty days' written notice to the victim's last known address, the court may order the judgment imposing a duty to pay restitution or reparation be docketed in the same manner as a civil judgment under section 29-26-22.1.

SECTION 2. AMENDMENT. Section 29-26-22.1 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22.1. Judgment for fine or, costs, restitution, or reparation in criminal cases - Docketing and enforcement.

The court may, within ten years of the date of entry of a judgment that imposes a fine, imposes a requirement that restitution or reparation be paid, or assesses costs against a defendant, may order the judgment to be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed. The docketing of the judgment has the same effect as the docketing of a civil judgment. The docketed judgment may be docketed in any other county in the same manner, it imposes a lien upon the real property owned by the defendant to the same extent, it is subject to the same statute of limitations, and it is enforceable by execution in the same manner as provided for a civil judgment for money. The court may direct a judgment be entered in favor of a person to whom restitution or reparation is ordered to be paid. That person may enforce the judgment as a civil judgment.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2068.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 91 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State