

HOUSE BILL NO. 1071

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact sections 27-11-01, 27-11-03.1, 27-11-06, 27-11-07,
2 27-11-08, 27-11-09, 27-11-10, 27-11-11, 27-11-12, 27-11-13, 27-11-14, 27-11-15, 27-11-17,
3 27-11-19, 27-11-22, 27-11-23, 27-11-24, 27-12-02, 27-12-04, and 27-12-06 and subsections 2
4 and 3 of section 54-57-01 of the North Dakota Century Code, relating to changing the name of
5 the state bar board to the board of law examiners.

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

7 **SECTION 1. AMENDMENT.** Section 27-11-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **27-11-01. Practicing law and serving on courts of record without certificate of**
10 **admission and without payment of annual license fee prohibited - Penalty.** Except as
11 otherwise provided by state law or supreme court rule, a person may not practice law, act as an
12 attorney or counselor at law in this state, or commence, conduct, or defend in any court of
13 record of this state, any action or proceeding in which ~~he~~ the person is not a party concerned,
14 nor may a person be qualified to serve on a court of record unless ~~he~~ that person has:

- 15 1. Secured from the supreme court a certificate of admission to the bar of this state;
16 and
17 2. Secured an annual license therefor from the state ~~bar~~ board of law examiners.

18 Any person who violates this section is guilty of a class A misdemeanor.

19 **SECTION 2. AMENDMENT.** Section 27-11-03.1 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **27-11-03.1. Conviction not bar to certification - Exceptions.** Conviction of an
22 offense does not disqualify a person from a certificate of admission and licensure under this
23 chapter unless the state ~~bar~~ board of law examiners and the supreme court determine that the
24 offense has a direct bearing upon a person's ability to serve the public as an attorney and

1 counselor at law, or that the person, following conviction of any offense, is not sufficiently
2 rehabilitated under section 12.1-33-02.1.

3 **SECTION 3. AMENDMENT.** Section 27-11-06 of the 1999 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **27-11-06. State ~~bar~~ board of law examiners established - Appointment and**
6 **qualifications of board members.** The state ~~bar~~ board ~~must consist of~~ law examiners
7 consists of at least three but no more than five members appointed by the supreme court. At
8 least three of the members of the board must be resident licensed members of the bar. Each
9 board member must be appointed from a list of nominees submitted by the bar association of
10 the state of North Dakota. The supreme court may return the list to the bar association for
11 additional nominees. If the bar association nominates a member for reappointment, a list of
12 nominees is not required unless requested by the supreme court.

13 **SECTION 4. AMENDMENT.** Section 27-11-07 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **27-11-07. Oath of member of state ~~bar~~ board of law examiners.** Each member of
16 the state ~~bar~~ board of law examiners, within ten days after ~~his~~ appointment, shall qualify by
17 taking the oath provided for civil officers.

18 **SECTION 5. AMENDMENT.** Section 27-11-08 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **27-11-08. Terms and removal of members of state ~~bar~~ board of law examiners.**
21 Members of the state ~~bar~~ board of law examiners must be appointed for a term of six years so
22 arranged that one term expires on January first of every odd-numbered year. Any member of
23 the ~~state bar~~ board may be removed at the pleasure of the supreme court.

24 **SECTION 6. AMENDMENT.** Section 27-11-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **27-11-09. Filling vacancies on state ~~bar~~ board of law examiners.** If a vacancy in
27 the membership of the state ~~bar~~ board of law examiners occurs by reason of the death,
28 resignation, removal, or incapacity to serve of any member ~~thereof~~, a successor must be
29 appointed by the supreme court for the unexpired portion of the term of such member.

30 **SECTION 7. AMENDMENT.** Section 27-11-10 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **27-11-10. Officers of state ~~bar~~ board of law examiners.** The state ~~bar~~ board of law
2 examiners shall elect one of its members president, who ~~shall hold said~~ holds office for a term
3 of two years and until ~~his~~ a successor is duly elected and qualified. The clerk of the supreme
4 court must be ex officio secretary-treasurer of the board.

5 **SECTION 8. AMENDMENT.** Section 27-11-11 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **27-11-11. Compensation of members of state ~~bar~~ board of law examiners.** Each
8 member of the state ~~bar~~ board of law examiners shall receive twenty-five dollars per day for the
9 actual time devoted ~~by him~~ to the official duties ~~of his office~~, and, in addition thereto, ~~shall~~ is
10 entitled to receive the actual expenses incurred ~~by him~~ in attending to ~~his~~ official duties while
11 away from ~~his~~ the member's place of residence.

12 **SECTION 9. AMENDMENT.** Section 27-11-12 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **27-11-12. Compensation of secretary-treasurer of state ~~bar~~ board of law**
15 **examiners.** The secretary-treasurer of the state ~~bar~~ board of law examiners must be allowed
16 such compensation for ~~his~~ services and ~~such~~ expenses as the board ~~shall determine~~
17 determines.

18 **SECTION 10. AMENDMENT.** Section 27-11-13 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **27-11-13. Powers of state ~~bar~~ board of law examiners.** The state ~~bar~~ board of law
21 examiners may employ such assistants, purchase such supplies, and incur such expense as
22 may be necessary to carry out the duties imposed upon it, but expenditures ~~therefor~~ may not
23 exceed the moneys in the state bar fund. It ~~shall possess~~ possesses such other powers and
24 duties relating to the admission of applicants to the bar as prescribed by state law or the
25 supreme court.

26 **SECTION 11. AMENDMENT.** Section 27-11-14 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **27-11-14. Payment of compensation and expenditures of state ~~bar~~ board of law**
29 **examiners.** All claims for compensation of members and officers of the state ~~bar~~ board of law
30 examiners and all claims for expenditures made by ~~such~~ the board must be submitted to the

1 office of ~~the~~ management and budget on sworn vouchers as required by law and must be paid
2 by the state treasurer ~~of this state~~ out of the state bar fund.

3 **SECTION 12. AMENDMENT.** Section 27-11-15 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **27-11-15. Records to be kept by state ~~bar~~ board of law examiners.** The state ~~bar~~
6 board of law examiners shall keep a record of all of its proceedings and a record of all
7 applications for admission and admissions to the bar of this state; and shall enroll in a book to
8 be kept for ~~such~~ this purpose the name of each person admitted to practice in this state as an
9 attorney at law.

10 **SECTION 13. AMENDMENT.** Section 27-11-17 of the 1999 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **27-11-17. Fee payable by all applicants for admission to bar - Disposition of fees.**
13 The state ~~bar~~ board of law examiners is entitled to receive a fee to be determined by the ~~state~~
14 ~~bar~~ board with the approval of the supreme court of an amount not to exceed one hundred fifty
15 dollars from each applicant for admission to the bar of this state who submits to examination by
16 the ~~state-bar~~ board and a fee to be determined by the ~~state-bar~~ board with the approval of the
17 supreme court of an amount not to exceed four hundred dollars from each applicant for
18 admission to the bar of this state who seeks admission upon motion in accordance with state
19 law or supreme court rule. All fees received must be deposited and disbursed in accordance
20 with section 54-44-12.

21 **SECTION 14. AMENDMENT.** Section 27-11-19 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **27-11-19. Supreme court to order issuance of certificate of admission.** The
24 supreme court, after receiving ~~from~~ and considering the state ~~bar~~ board a of law examiners'
25 report of the results of an examination of applicants for admission to the bar of this state and
26 the recommendations of ~~such~~ the board, ~~and after considering the same,~~ shall enter an order
27 authorizing the issuance of certificates of admission to the bar to ~~such~~ those applicants ~~therefor~~
28 ~~as such~~ the court considers entitled ~~thereto~~ to admission. ~~Such order may be given in term~~
29 ~~time or in vacation and the~~ The issuance of ~~such~~ the certificates is dependent upon the taking
30 of the oath and pledge of office by the applicants at ~~such~~ the time and place ~~as such~~ the order
31 ~~may provide~~ provides.

1 **SECTION 15. AMENDMENT.** Section 27-11-22 of the 1999 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **27-11-22. Annual licenses to practice law and to serve on certain courts -**
4 **Requirement - Issuance - Fees.** ~~Every~~ A person who has an unrevoked certificate of
5 admission to the bar of this state and who desires to engage in the practice of law, or who is to
6 serve as a judge of a court of record, ~~shall~~ must secure an annual license from the state ~~bar~~
7 board of law examiners on or before January first of each year. The secretary-treasurer of the
8 board shall issue the license upon compliance with the rules adopted or approved by the
9 supreme court to assure the professional competence of attorneys, and upon payment of a fee
10 established by the state bar association at its annual meeting, by a majority vote of its members
11 in attendance at the meeting, not to exceed four hundred dollars. The license is valid for the
12 calendar year for which it is issued. Issuance of an annual license to practice law may not be
13 conditioned upon payment of any surcharge, assessment, or fee in excess of the maximum fee
14 established by this section. This section does not prohibit imposition of a reasonable fee for
15 filing and processing reports of compliance with continuing education requirements.

16 **SECTION 16. AMENDMENT.** Section 27-11-23 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **27-11-23. Fees from annual licenses to be deposited in state bar fund.** The
19 secretary-treasurer of the state ~~bar~~ board of law examiners shall deposit and disburse all fees
20 and moneys collected by the board in accordance with section 54-44-12.

21 **SECTION 17. AMENDMENT.** Section 27-11-24 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **27-11-24. Expenditure of state bar fund.** Moneys in the state bar fund must be used
24 to pay:

- 25 1. The bar association of the state of North Dakota the sum required to be paid ~~by the~~
26 ~~provisions of~~ under section 27-12-04;
- 27 2. The compensation and expenses allowed by law to each member and to the
28 secretary-treasurer of the state ~~bar~~ board of law examiners;
- 29 3. The expenses incurred by the state ~~bar~~ board of law examiners in conducting
30 examinations of applicants for admission to the bar of this state and expenses of
31 the ~~state bar~~ board or a grievance committee of the supreme court in investigating

1 charges warranting the suspension or disbarment of members of the bar, or in
2 prosecutions brought and conducted before the supreme court for the discipline of
3 such members;

4 4. The expenses incurred by the bar association of the state of North Dakota in
5 conducting investigations and prosecutions of proceedings instituted for the
6 purpose of protecting the public and the bar of North Dakota against unauthorized
7 practice by corporations, limited liability companies, or persons not licensed to
8 practice law; and

9 5. The necessary expenses of conducting and supplying the offices of the state bar
10 board of law examiners.

11 **SECTION 18. AMENDMENT.** Section 27-12-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **27-12-02. Membership of state bar association.** The membership of the state bar
14 association of North Dakota consists of every person:

15 1. Who has secured an annual license to practice law in this state from the state bar
16 board of law examiners in accordance with section 27-11-22; or

17 2. Who has an unrevoked certificate of admission to the bar of this state and who has
18 paid an annual membership fee to the state bar association. The annual fee must
19 be established by the state bar association at its annual meeting, by a majority vote
20 of its members in attendance at the meeting, not to exceed eighty percent of the
21 maximum fee for an annual license to practice law in this state as prescribed in
22 section 27-11-22.

23 **SECTION 19. AMENDMENT.** Section 27-12-04 of the 1999 Supplement to the North
24 Dakota Century Code is amended and reenacted as follows:

25 **27-12-04. Moneys payable from state bar fund to state bar association.** The state
26 bar association of North Dakota, out of the state bar fund, must receive, for operation of the
27 lawyer discipline system, ~~fifty dollars of each license fee beginning January 1, 1998, and~~
28 seventy-five dollars of each license fee beginning January 1, 1999. Eighty percent of the
29 remaining amount of the annual license fees paid by licensed members must be paid to the
30 state bar association for the purpose of administering and operating the association. These

1 sums must be paid quarterly to the association by the state ~~bar~~ board of law examiners upon
2 vouchers drawn in accordance with section 54-44-12.

3 **SECTION 20. AMENDMENT.** Section 27-12-06 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **27-12-06. Method of expenditure of association's funds - Annual report of**
6 **receipts and disbursements.** Expenditures of funds from the state bar association special
7 fund which consists of all moneys or fees collected or received by the association and which is
8 deposited or disbursed in accordance with section 54-44-12, must be approved by the president
9 and executive director of said association. The secretary-treasurer of said association, in
10 addition to the duties imposed ~~upon him~~ by the constitution, bylaws, and rules of the
11 association, annually shall file in the office of the secretary-treasurer of the state ~~bar~~ board of
12 law examiners an itemized statement of the receipts and disbursements of said association.

13 **SECTION 21. AMENDMENT.** Subsections 2 and 3 of section 54-57-01 of the 1999
14 Supplement to the North Dakota Century Code are amended and reenacted as follows:

15 2. The office is under the direction of a director of administrative hearings who must
16 be free of any association that would impair the director's ability to function officially
17 in a fair and objective manner. The director must be an attorney at law in good
18 standing, admitted to the bar in this state, and currently licensed by the state ~~bar~~
19 board of law examiners. The director of administrative hearings must be appointed
20 by the governor and confirmed by the senate and shall hold office for a term of six
21 years, the term beginning July first of the year of appointment and ending June
22 thirtieth of the sixth calendar year after appointment.

23 3. The director of administrative hearings may preside as an administrative law judge
24 at administrative hearings and may employ or appoint additional administrative law
25 judges to serve in the office as necessary to fulfill the duties of office as described
26 in section 54-57-04 and section 28-32-08.5 and to provide administrative law
27 judges to preside at administrative hearings as requested by agencies. ~~After~~
28 ~~August 1, 1995, the~~ The director of administrative hearings may employ or appoint
29 only such additional administrative law judges who are attorneys at law in good
30 standing, admitted to the bar in the state, and currently licensed by the state ~~bar~~
31 board of law examiners. The director may delegate to an employee the exercise of

1 a specific statutory power or duty as deemed advisable, subject to the director's
2 control, including the powers and duties of a deputy director. All administrative law
3 judges must be classified employees, except that the director of administrative
4 hearings must be an unclassified employee who only may be removed, during a
5 term of office, for cause. Each administrative law judge must have a demonstrated
6 knowledge of administrative practices and procedures and must be free of any
7 association that would impair the person's ability to function officially in a fair and
8 objective manner.