

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1409

Introduced by

Representatives Grande, Haas, Kreidt

Senators Dever, Mutch

1 A BILL for an Act to amend and reenact subsection 1 of section 12.1-32-08 of the North Dakota
2 Century Code, relating to restitution.

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

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

- 6 1. Before imposing restitution or reparation as a sentence or condition of probation,
7 the court shall hold a hearing on the matter with notice to the prosecuting attorney
8 and to the defendant as to the nature and amount ~~thereof~~ of restitution. The court,
9 when sentencing a person adjudged guilty of criminal activities that have resulted
10 in pecuniary damages, in addition to any other sentence ~~it~~ the court may impose,
11 shall order that the defendant make restitution to the victim or other recipient as
12 determined by the court, unless the court states on the record, based upon the
13 criteria in this subsection, the reason it does not order restitution or orders only
14 partial restitution. Restitution must include payment to the owner of real property
15 that is contaminated by the defendant in the manufacturing of methamphetamine
16 for the cost of removing the contamination and returning the property to the
17 property's condition before contamination and to any other person that has
18 incurred costs in decontaminating the property. In determining whether to order
19 restitution, the court shall take into account:
- 20 a. The reasonable damages sustained by the victim or victims of the criminal
21 offense, which damages are limited to those directly related to the criminal
22 offense and expenses actually incurred as a direct result of the defendant's
23 criminal action. This can include an amount equal to the cost of necessary
24 and related professional services and devices relating to physical, psychiatric,

- 1 and psychological care. The defendant may be required as part of the
2 sentence imposed by the court to pay the prescribed treatment costs for a
3 victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2.
- 4 b. The ability of the defendant to restore the fruits of the criminal action or to pay
5 monetary reparations, or to otherwise take action to restore the victim's
6 property.
- 7 c. The likelihood that attaching a condition relating to restitution or reparation will
8 serve a valid rehabilitational purpose in the case of the particular offender
9 considered.

10 The court shall fix the amount of restitution or reparation, which may not exceed an
11 amount the defendant can or will be able to pay, and shall fix the manner of
12 performance of any condition or conditions of probation established pursuant to
13 this subsection. The court shall order restitution be paid to the division of adult
14 services for any benefits the division has paid or may pay under chapter 54-23.4
15 unless the court, on the record, directs otherwise. Any payments made pursuant
16 to the order must be deducted from damages awarded in a civil action arising from
17 the same incident. An order that a defendant make restitution or reparation as a
18 sentence or condition of probation may, unless the court directs otherwise, be filed,
19 transcribed, and enforced by the person entitled to the restitution or reparation or
20 by the division of adult services in the same manner as civil judgments rendered
21 by the courts of this state may be enforced.