

**2021 HOUSE JUDICIARY**

**HB 1130**

# 2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary  
Room JW327B, State Capitol

HB 1130  
1/18/2021

<b>Relating to judgments imposing fines or assessing costs.</b>
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Chairman Klemin called the hearing to order at 2:00 PM.

Representatives	Attendance
Representative Lawrence R. Klemin	X
Representative Karen Karls	X
Representative Rick Becker	A
Representative Ruth Buffalo	X
Representative Cole Christensen	X
Representative Claire Cory	X
Representative Karla Rose Hanson	X
Representative Terry B. Jones	X
Representative Jeffery J. Magrum	X
Representative Bob Paulson	X
Representative Gary Paur	X
Representative Shannon Roers Jones	X
Representative Bernie Satrom	X
Representative Steve Vetter	X

### Discussion Topics:

- Proposed hog house amendment.

**Rep. Lefor:** Introduced the bill. Testimony #1236 2:00

**Stephanie Dassinger, ND League of Cities:** Testimony #1095 and 1096. 2:04

**Additional written testimony:** 1202, 1499, 1500

Chairman Klemin adjourned at 2:18PM

DeLores D. Shimek  
Committee Clerk

Representative Mike Lefor

HB 1130 Testimony

Good afternoon, Chairman Klemin and members of the House Judiciary Committee, for the record my name is Mike Lefor and I represent District 37 Dickinson in the House. I bring HB 1130 to you today on behalf of the Municipal Court system in the state.

When an offender appears before a municipal judge, and is found guilty the judge may impose incarceration, fines or penalties. If the individual does not pay the fine or penalty, the judge must issue an order to show cause and often involves the issuance of warrants and possible jail sentences for non-compliance.

A considerable part of the time of a Municipal Judge is spent on efforts to collect amounts determined to be owing as fines or penalties. Some of those amounts are substantial, sometimes at least in part due to minimum fines required by legislation. The result in many cases is that the city's costs increase as they attempt to enforce judgments even though they do not always collect what is owed.

In the communities of Dickinson, Mandan, Bismarck and Rugby, the outstanding amount of fines is in excess of \$1,000,000 is outstanding. It is reasonable to assume the total amount owing across the state would be in excess of \$3,000,000. The association would like to have the option of collecting the criminal judgments to civil judgments and collection of some of those judgments would occur through the civil court system.

Since, this bill was introduced, the association has decided to provide a hog-house amendment to this bill which I have reviewed and would certainly support. With that, members of the Judiciary committee, I would respectfully request a do pass recommendation and I would stand for any questions you may have.

January 18, 2021  
House Judiciary Committee  
HB 1130  
Rep. Lawrence R. Klemin, Chair

For the record, I am Stephanie Dassinger. I am appearing on behalf of the North Dakota League of Cities.

The North Dakota League of Cities appears in support of the concept of HB 1130 and supports the bill if the amendments included with my testimony are adopted.

Representative Lefor and I have been working with the municipal court judges to find a way to allow municipal courts to convert their criminal judgments into civil court judgments in the district court. This goal has proven more difficult than it initially appeared since it needs to consider that it involves two different court systems. The North Dakota Century Code has a process for district courts to convert criminal judgments to civil judgments and it makes sense to have a similar process for municipal court judgments.

One of the advantages of converting a municipal court judgment to a civil judgment is that a civil court judgment is a lien on all real property in the county where the judgment is filed. Thus, for example, if a defendant owns a home and decides to sell the home, he or she would need to pay the judgment to resolve the lien on the house and convey clean title to the new owners. This provides a convenient way to resolve some outstanding municipal court judgments.

To help provide context for the other reason why it makes sense to convert a criminal judgment into a civil judgment, I will explain what happens when someone defaults on paying the fines and fees associated with a municipal court judgment. When someone fails to pay the fines or fees associated with a municipal court judgment, the municipal court issues the defendant notice of an order to show cause hearing. This is a court hearing where the defendant comes in and explains why he or she cannot pay the fines and fees. If the defendant fails to appear for the order to show cause hearing, the court will issue a warrant for the defendant's arrest. If that defendant encounters law enforcement for another reason, such as a traffic offense, he or she will be arrested and brought before the municipal judge on the warrant for failing to attend the hearing. The defendant is brought before the municipal judge and asked to explain why he or she has not paid the fines and fees. A lot of times that person is unable to pay the fines and fees and is released. Then the process starts over again. Converting the municipal judgment to a civil judgment would stop the cycle of order to show cause hearings, arrest warrants, and arrests.

Onto the language of the original bill. The goal of the bill is to accomplish all of the things I just discussed. Unfortunately, in reviewing the bill, I do not believe it quite gets to where it needs to be. As a result, the attached hog house amendment was drafted, which I believe provides a process to accomplish converting municipal judgments to civil judgments.

The amendment is modeled after NDCC ch. 28-20.1 on the enforcement of judgments from other jurisdictions inside North Dakota. As such, this is a process that is already familiar in the North Dakota Court System.

With that explanation, I will walk through the proposed amendment which adds 5 sections to NDCC ch. 40-18 on municipal judges.

New section 40-18-14.1 provides the general authority for filing a municipal judgment with the clerk of court of district court and instructs the clerk of court to treat the judgment in the same manner as a civil district court judgment.

New section 40-18-14.2 requires that the municipal court file an affidavit that includes the last known postal mailing address for the defendant along with the judgment. It also requires that the clerk of court use that mailing address to mail the defendant notice of the filing. The municipal court has the option to also mail the defendant notice of the filing.

New section 40-18-14.3 provides that the defendant can file a stay or stop the judgment from being effective if an appeal will be filed or is pending. As a practical matter, I do not see any of the municipal judges using these new provisions prior to any appeals being finalized.

New section 40-18-14.4 provides that the municipal court will pay the district court a \$10 filing fee. This fee is consistent with the fee that is paid to file judgments from other jurisdictions with the district court.

New section 40-18-14.5 provides that once this process is complete, the judgment is only enforceable as a civil judgment.

The North Dakota League of Cities requests that you adopt the proposed amendment language and then make a DO PASS recommendation on HB 1130.

Thank you for your consideration.

Language for Potential Amendment from the North Dakota League of Cities

40-18-14.1 Judgment for Fine or costs.

If the judgment provided for in section 40-18-14 imposes a fine or assesses a cost, the municipal judge may order that an authenticated copy of the judgment be filed in the office of the clerk of any district court of any county in the state. The clerk of district court shall treat the municipal court judgment in the same manner as a civil judgment of the district court of any county of the state.

40-18-14.2 Notice of Filing.

1. At the time of filing the judgment provided in section 40-18-14, the municipal court judge shall order that an affidavit setting forth the name and last-known post-office address of the defendant and otherwise complying with section 28-20-15 be filed.
2. Promptly upon the filing of the judgment provided in section 40-18-14 and the affidavit, the clerk of district court shall mail notice of the filing of the municipal judgment to defendant at the address given and shall make a note of the mailing in the docket. The notice must include the name and post-office address of the municipal court. In addition, the municipal judge may order that notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. Lack of mailing notice of filing by the clerk of district court shall not affect the enforcement proceedings if proof of mailing by the municipal court has been filed.
3. No execution or other process for enforcement of a municipal court judgment filed hereunder may be issued until ten days after the date the judgment is filed.

40-18-14.3 Stay.

If the defendant shows the district court of any county that an appeal from the judgment provided in section 40-18-14 is pending or will be taken, the court shall stay enforcement of the municipal court judgment until the appeal is concluded, or the time for appeal expires.

40-18-14.4 Fees.

The municipal judge shall order that a filing fee of ten dollars shall be paid to the clerk of the district court.

40-18-14.5 Effect of Filing.

Once the judgment provided for in section 40-18-14 is filed in the district court in accordance with section 40-18-14.1 to 40-18-14.4, the judgment is only enforceable in the same manner as provided for a judgment for money in a civil action.

**TESTIMONY ON HOUSE BILL 1130**

**House Judiciary Committee**

**January 18, 2021**

**Daniel L. Gaustad, City Attorney, City of Grand Forks, ND**

Chairman Koppelman and members of the House Judiciary Committee, my name is Daniel L. Gaustad and I am the City Attorney for the City of Grand Forks. I want to thank you for the opportunity to provide testimony and express the City of Grand Forks' support for HB 1130.

The City of Grand Forks, like many cities in North Dakota, relies on a municipal court for enforcement of the Grand Forks City Code. One of the enforcement mechanisms available to the municipal court is issuing fines and fees for violations of municipal ordinances. However, in some circumstances, when an individual is unable to pay the fines and fees, or simply forgets to make a payment, the municipal court then issues an order to show cause and bench warrant for the individual's arrest. This requires an appearance of the individual to explain the missed payment.

The passage of HB 1130 will give the Grand Forks Municipal Court the ability to treat a criminal monetary judgment for violation of a municipal ordinance as a civil judgment to prevent a cycle of Orders to Show Cause and warrants for failure to pay municipal fines. In turn, this will lessen the burden on municipal courts and jails for individuals who are only being arrested or made to appear because they are unable to pay fines/fees. In sum, HB 1130 will provide the municipal court with an option in these circumstances, other than Orders to Show Cause and warrants, for failure to pay fines and fees and alternative means of collecting such fines and fees.

The City of Grand Forks asks for a DO PASS for HB 1130.

Sixty-seventh  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1130

Introduced by

Representatives Lefor, Steiner

Senator Wardner

1 A BILL ~~for an Act to create and enact section 40-18-14.1 of the North Dakota Century Code,~~  
2 ~~relating to the authority of the municipal court to execute judgments; and to amend and reenact~~  
3 ~~section 29-27-02 of the North Dakota Century Code, relating to judgments imposing fines or~~  
4 ~~assessing costs.~~ for an Act to create and enact sections 40-18-14.1, 40-18-14.2, 40-18-14.3,  
5 40-18-14.4, and 40-18-14.5 of the North Dakota Century Code, relating to the authority of the  
6 municipal court to execute judgments.

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

8 ~~— **SECTION 1. AMENDMENT.** Section 29-27-02 of the North Dakota Century Code is~~  
9 ~~amended and reenacted as follows:~~

10 ~~— **29-27-02. Judgment for fine or costs.**~~

11 ~~— 1. If the judgment mentioned in section 29-27-01 imposes a fine or assesses costs, and~~  
12 ~~the judgment has been docketed in the judgment docket by order of the court, the~~  
13 ~~judgment is enforceable by execution in the same manner as provided for a judgment~~  
14 ~~for money in a civil action.~~

15 ~~— 2. If the judgment mentioned in section 29-27-01 imposes a fine or assesses costs, and~~  
16 ~~the judgment is by order of the municipal court, the judgment is enforceable by~~  
17 ~~execution in the same manner as provided for a judgment for money in a civil action.~~

18 ~~— **SECTION 2.** Section 40-18-14.1 of the North Dakota Century Code is created and enacted~~  
19 ~~as follows:~~

20 ~~— **40-18-14.1. Judgment for fine or costs.**~~

21 ~~— Pursuant to section 29-27-02, a municipal judge may execute a judgment imposing a fine or~~  
22 ~~assessing costs in the same manner as provided for a judgment for money in a civil action.~~

23 **SECTION 1.** Section 40-18-14.1 of the North Dakota Century Code is created and enacted  
24 as follows:

1 **40-18-14.1. Judgment for fine or costs.**

2 If the judgment provided for in section 40-18-14 imposes a fine or assesses a cost, the  
3 municipal judge may order an authenticated copy of the judgment be filed in the office of the  
4 clerk of any district court of any county in the state. The clerk of district court shall treat the  
5 municipal court judgment in the same manner as a civil judgment of any district court of any  
6 county of the state.

7 **SECTION 2.** Section 40-18-14.2 of the North Dakota Century Code is created and enacted  
8 as follows:

9 **40-18-14.2. Notice of filing.**

- 10 1. At the time of filing a judgment under section 40-18-14, the municipal court judge shall  
11 order an affidavit providing the name and last known mailing address of the defendant  
12 and otherwise complying with section 28-20-15 be filed.
- 13 2. Upon the filing of the judgment and affidavit as provided in section 40-18-14, the clerk  
14 of district court shall mail notice of the filing of the municipal judgment to the defendant  
15 at the address provided and make a note of the mailing in the docket. The notice must  
16 include the name and mailing address of the municipal court. In addition, the municipal  
17 judge may order notice of the filing of the judgment be mailed to the defendant and  
18 proof of the filing may be filed with the clerk of district court. If proof of mailing by the  
19 municipal court has been filed, a failure of the clerk of district court to mail a notice  
20 may not effect the enforcement of the proceedings.
- 21 3. An execution of other process for enforcement of a municipal court judgment filed  
22 under this section may not be issued until ten days after the date the judgment is filed.

23 **SECTION 3.** Section 40-18-14.3 of the North Dakota Century Code is created and enacted  
24 as follows:

25 **40-18-14.3. Stay.**

26 If the defendant shows the district court of any county that an appeal from the judgment  
27 provided in section 40-18-14 is pending or will be taken, the court shall stay enforcement of the  
28 municipal court judgment until the appeal is concluded or the time of appeal expires.

29 **SECTION 4.** Section 40-18-14.4 of the North Dakota Century Code is created and enacted  
30 as follows:

1     **40-18-14.4. Fees.**

2     The municipal judge shall order a filing fee of ten dollars to be paid to the clerk of the district  
3 court.

4     **SECTION 5.** Section 40-18-14.5 of the North Dakota Century Code is created and enacted  
5 as follows:

6     **40-18-14.5. Effect of filing.**

7     Upon filing of a judgment under section 40-18-14 with the district court in accordance with  
8 this chapter, the judgment is enforceable only in the same manner as provided for a judgment  
9 for money in a civil action.

21.0628.01001  
Title.

Prepared by the Legislative Council staff for  
House Judiciary Committee  
January 18, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1130

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact sections 40-18-14.1, 40-18-14.2, 40-18-14.3, 40-18-14.4, and 40-18-14.5 of the North Dakota Century Code, relating to the authority of the municipal court to execute judgments.

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

**SECTION 1.** Section 40-18-14.1 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.1. Judgment for fine or costs.**

If the judgment provided for in section 40-18-14 imposes a fine or assesses a cost, the municipal judge may order an authenticated copy of the judgment be filed in the office of the clerk of any district court of any county in the state. The clerk of district court shall treat the municipal court judgment in the same manner as a civil judgment of any district court of any county of the state.

**SECTION 2.** Section 40-18-14.2 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.2. Notice of filing.**

1. At the time of filing a judgment under section 40-18-14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28-20-15 be filed.
2. Upon the filing of the judgment and affidavit as provided in section 40-18-14, the clerk of district court shall mail notice of the filing of the municipal judgment to the defendant at the address provided and make a note of the mailing in the docket. The notice must include the name and mailing address of the municipal court. In addition, the municipal judge may order notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. If proof of mailing by the municipal court has been filed, a failure of the clerk of district court to mail a notice may not effect the enforcement of the proceedings.
3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.

**SECTION 3.** Section 40-18-14.3 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.3. Stay.**

If the defendant shows the district court of any county that an appeal from the judgment provided in section 40-18-14 is pending or will be taken, the court shall stay enforcement of the municipal court judgment until the appeal is concluded or the time of appeal expires.

**SECTION 4.** Section 40-18-14.4 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.4. Fees.**

The municipal judge shall order a filing fee of ten dollars to be paid to the clerk of the district court.

**SECTION 5.** Section 40-18-14.5 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.5. Effect of filing.**

Upon filing of a judgment under section 40-18-14 with the district court in accordance with this chapter, the judgment is enforceable only in the same manner as provided for a judgment for money in a civil action."

Renumber accordingly

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Judiciary**  
Room JW327B, State Capitol

HB 1130  
1/19/2021

Relating to the authority of the municipal court to execute judgments.

**Chairman Klemin** called the hearing to order at 9:00 AM.

Present: Representatives Klemin, Karls, Becker, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter. Absent: Buffalo

**Discussion Topics:**

- Amendment
- Committee Work

**Chairman Klemin:** Went over proposed amendment 21.0628.01001.

**Motion to amendment by Rep. Karls; Seconded by Rep. T. Jones**  
Voice vote carried.

**Do Not Pass as amended Motion Made by Rep. Roers Jones; Seconded by Rep. Satrom**

Roll Call Vote :

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Rick Becker	Y
Representative Ruth Buffalo	A
Representative Cole Christensen	N
Representative Claire Cory	Y
Representative Karla Rose Hanson	N
Representative Terry B. Jones	N
Representative Jeffery J. Magrum	N
Representative Bob Paulson	Y
Representative Gary Paur	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Steve Vetter	Y

6-7-1 Motion Failed

**Do Pass as Amended Motion Made by Rep. Magrum; Seconded by Rep. T. Jones**

Roll Call Vote:

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Rick Becker	N
Representative Ruth Buffalo	A
Representative Cole Christensen	Y
Representative Claire Cory	N
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	N
Representative Gary Paur	Y
Representative Shannon Roers Jones	N
Representative Bernie Satrom	N
Representative Steve Vetter	N

Motion carried. 7-6-1 Carrier: Rep. K. Hanson

**Chairman Klemin** closed the meeting at 9:02

*DeLores D. Shimek, Committee Clerk*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1130

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact sections 40-18-14.1, 40-18-14.2, 40-18-14.3, 40-18-14.4, and 40-18-14.5 of the North Dakota Century Code, relating to the authority of the municipal court to execute judgments.

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

**SECTION 1.** Section 40-18-14.1 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.1. Judgment for fine or costs.**

If the judgment provided for in section 40-18-14 imposes a fine or assesses a cost, the municipal judge may order an authenticated copy of the judgment be filed in the office of the clerk of any district court of any county in the state. The clerk of district court shall treat the municipal court judgment in the same manner as a civil judgment of any district court of any county of the state.

**SECTION 2.** Section 40-18-14.2 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.2. Notice of filing.**

1. At the time of filing a judgment under section 40-18-14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28-20-15 be filed.
2. Upon the filing of the judgment and affidavit as provided in section 40-18-14, the clerk of district court shall mail notice of the filing of the municipal judgment to the defendant at the address provided and make a note of the mailing in the docket. The notice must include the name and mailing address of the municipal court. In addition, the municipal judge may order notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. If proof of mailing by the municipal court has been filed, a failure of the clerk of district court to mail a notice may not effect the enforcement of the proceedings.
3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.

**SECTION 3.** Section 40-18-14.3 of the North Dakota Century Code is created and enacted as follows:

DB 1/19/01  
2 of 2

**40-18-14.3. Stay.**

If the defendant shows the district court of any county that an appeal from the judgment provided in section 40-18-14 is pending or will be taken, the court shall stay enforcement of the municipal court judgment until the appeal is concluded or the time of appeal expires.

**SECTION 4.** Section 40-18-14.4 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.4. Fees.**

The municipal judge shall order a filing fee of ten dollars to be paid to the clerk of the district court.

**SECTION 5.** Section 40-18-14.5 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.5. Effect of filing.**

Upon filing of a judgment under section 40-18-14 with the district court in accordance with this chapter, the judgment is enforceable only in the same manner as provided for a judgment for money in a civil action."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1130: Judiciary Committee (Rep. Klemin, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1130 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact sections 40-18-14.1, 40-18-14.2, 40-18-14.3, 40-18-14.4, and 40-18-14.5 of the North Dakota Century Code, relating to the authority of the municipal court to execute judgments.

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

**SECTION 1.** Section 40-18-14.1 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.1. Judgment for fine or costs.**

If the judgment provided for in section 40-18-14 imposes a fine or assesses a cost, the municipal judge may order an authenticated copy of the judgment be filed in the office of the clerk of any district court of any county in the state. The clerk of district court shall treat the municipal court judgment in the same manner as a civil judgment of any district court of any county of the state.

**SECTION 2.** Section 40-18-14.2 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.2. Notice of filing.**

1. At the time of filing a judgment under section 40-18-14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28-20-15 be filed.
2. Upon the filing of the judgment and affidavit as provided in section 40-18-14, the clerk of district court shall mail notice of the filing of the municipal judgment to the defendant at the address provided and make a note of the mailing in the docket. The notice must include the name and mailing address of the municipal court. In addition, the municipal judge may order notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. If proof of mailing by the municipal court has been filed, a failure of the clerk of district court to mail a notice may not effect the enforcement of the proceedings.
3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.

**SECTION 3.** Section 40-18-14.3 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.3. Stay.**

If the defendant shows the district court of any county that an appeal from the judgment provided in section 40-18-14 is pending or will be taken, the court shall stay enforcement of the municipal court judgment until the appeal is concluded or the time of appeal expires.

**SECTION 4.** Section 40-18-14.4 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.4. Fees.**

The municipal judge shall order a filing fee of ten dollars to be paid to the clerk of the district court.

**SECTION 5.** Section 40-18-14.5 of the North Dakota Century Code is created and enacted as follows:

**40-18-14.5. Effect of filing.**

Upon filing of a judgment under section 40-18-14 with the district court in accordance with this chapter, the judgment is enforceable only in the same manner as provided for a judgment for money in a civil action."

Renumber accordingly

**2021 SENATE JUDICIARY**

**HB 1130**

# 2021 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Peace Garden Room, State Capitol

HB 1130  
3/15/2021

Relating to the authority of the municipal court to execute judgments.

Hearing called to order, [2:37] all senators are present: **Myrdal, Luick, Dwyer, Bakke, Heitkamp, Fors, and Larson.**

### Discussion Topics:

- Option to collect criminal judgments through the civil process
- Process to file criminal judgements through the civil process

Representative Mike Lefor, [2:27], testified in favor, #9237  
Stephanie Dassinger, [2:32] ND League of Cities, testified in favor #10071

Senator Myrdal [2:40] moved amendment  
21.0628.02001  
Senator Luick [2:40] seconded the motion

Senators	Vote
Senator Janne Myrdal	Y
Senator Larry Luick	Y
Senator Michael Dwyer	Y
Senator Jason G Heitkamp	Y
Senator Robert O Fors	Y
Senator Jonell A Bakke	Y
Senator Diane Larson	Y

The motion passes 7-0-0

Senator Luick [2:41] moved to DO PASS AS  
AMENDED  
Senator Dwyer [2:40] seconded the motion

Senators	Vote
Senator Janne Myrdal	Y
Senator Larry Luick	Y
Senator Michael Dwyer	Y
Senator Jason G Heitkamp	Y
Senator Robert O Fors	Y
Senator Jonell A Bakke	Y
Senator Diane Larson	Y

The motion passes 7-0-0  
Senator Dwyer [2:42] will carry

Hearing adjourned [2:45]

### Additional written testimony:

Mitchel S Sanderson, testified Neutral #9050  
Sara Behrens, ND Supreme Court, ND Supreme Court, testified Neutral #9135  
Robert E Keogh, President, ND Municipal Judge's Association, testified in favor #9167  
Daniel Gaustad, City Attorney, City of Grand Forks, testified in favor #9168

*Jamal Omar, Committee Clerk*

March 15, 2021

SB  
3115  
121

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1130

Page 1, line 20, replace "district" with "municipal"

Page 1, line 21, replace "address provided and make a note of the mailing in the docket" with "defendant's last known address and file proof of mailing with the district court"

Page 1, line 22, remove "In addition, the municipal"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 and 2

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1130, as engrossed: Judiciary Committee (Sen. Larson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1130 was placed on the Sixth order on the calendar.

Page 1, line 20, replace "district" with "municipal"

Page 1, line 21, replace "address provided and make a note of the mailing in the docket" with "defendant's last known address and file proof of mailing with the district court"

Page 1, line 22, remove "In addition, the municipal"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 and 2

Renumber accordingly

## HB 1130 Testimony

Senate Judiciary Committee

Representative Mike Lefor

Good afternoon, Chair Larson and members of the Senate Judiciary Committee, my name is Mike Lefor and I represent District 37 – Dickinson in the House. I bring HB 1130 to you on behalf of the Municipal Court system in the state. The idea behind this bill is to give municipal courts in the state the ability to collect unpaid fines or penalties through the civil process.

Currently, the court may attempt to collect the fines through an order to show cause and bench warrant for the individual's arrest. Further, they may face jail sentences for non-compliance. This is a cumbersome and sometimes difficult process requiring more time and effort in attempting to collect these fines.

A considerable amount of time of a municipal judge is spent on efforts to collect amounts determined to be owing as fines or penalties. Some of those amounts are substantial. This increases the costs to the city as they attempt to enforce those judgments even though they do not always collect what is owed.

In the communities of Dickinson, Bismarck, Mandan and Rugby, the outstanding amount owed is in excess of \$1,000,000.00. The association would like to have the option of collecting criminal judgments through the civil process. This would make the process of collecting unpaid fines more affordable and less time consuming.

This bill has been amended to make the process better for all concerned and I support the amendment which will be proposed by the League of Cities. The bill lowers costs and allows for more efficiency in collecting unpaid fines.

With that, members of the Senate Judiciary Committee, I would respectfully request a do pass recommendation and I would stand for any questions.

March 15, 2021

Senate Judiciary Committee

HB 1130

Sen. Diane Larson, Chair

For the record, I am Stephanie Dassinger. I am appearing on behalf of the North Dakota League of Cities in support of HB 1130.

Representative Lefor and I have been working with the municipal court judges to find a way to allow municipal courts to convert their criminal judgments into civil judgments in the district court. As demonstrated by the hog house amendment adopted by the House, this process proved more difficult than it originally appeared. Additionally, I have had conversations with a representative from the Supreme Court about one additional amendment to the bill and the League would support that amendment. I will explain that amendment later in my testimony.

One of the advantages of converting a municipal court judgment to a civil judgment is that a civil court judgment is a lien on all real property in the county where the judgment is filed. Thus, for example, if a defendant owns a home and decides to sell the home, he or she would need to pay the judgment to resolve the lien on the house and convey clean title to the new owners. This provides a convenient way to resolve some outstanding municipal court judgments.

To help provide context for the other reason why it makes sense to convert a criminal judgment into a civil judgment, I will explain what happens when someone defaults on paying the fines and fees associated with a municipal court judgment. When someone fails to pay the fines or fees associated with a municipal court judgment, the municipal court issues the defendant notice of an order to show cause hearing. This is a court hearing where the defendant comes in and explains why he or she has not paid the fines and fees. If the defendant fails to appear for the order to show cause hearing, the court will issue a warrant for the defendant's arrest. If that defendant encounters law enforcement for another reason, such as a traffic offense, he or she will be arrested and brought before the municipal judge for failing to attend the hearing. At that hearing the person is asked to explain why he or she has not paid the fines and fees. A lot of times that person is unable to pay the fines and fees and is released after agreeing to a payment plan for getting the fines and fees paid. Then the process starts over again if payments are not made in accordance with the payment plan. Converting the municipal judgment to a civil judgment would stop the cycle of order to show cause hearings, arrest warrants, and arrests.

The bill is modeled after NDCC ch. 28-20.1 on the enforcement of judgments from other jurisdictions inside North Dakota. As such, this is a process that is already familiar in the North Dakota Court System.

With that explanation, I will walk through HB 1130 which adds 5 sections to NDCC ch. 40-18 on municipal judges.

## Section 1

This section provides the general authority for filing a municipal judgment with the clerk of court of district court and instructs the clerk of court to treat the judgment in the same manner as a civil district court judgment.

## Section 2

This section requires that the municipal court file an affidavit that includes the last known postal mailing address for the defendant along with the judgment. It also requires that the clerk of court use that mailing address to mail the defendant notice of the filing. The municipal court has the option to also mail the defendant notice of the filing.

This is the section that has a proposed amendment. The amendment would require that the municipal court, not the district court clerk, mail the defendant a copy of the notice of filing and file proof of the mailing with the district court. The League supports this amendment and asks that the committee adopt the amendment.

## Section 3

This section provides that the defendant can file a stay or stop the judgment from being effective if an appeal will be filed or is pending. As a practical matter, I do not see any of the municipal judges using these new provisions prior to any appeals being finalized.

## Section 4

This section provides that the municipal court will pay the district court a \$10 filing fee. This fee is consistent with the fee that is paid to file judgments from other jurisdictions with the district court.

## Section 5

This section provides that once this process is complete, the judgment is only enforceable as a civil judgment.

The North Dakota League of Cities requests that you adopt the proposed amendment and then make a DO PASS recommendation on HB 1130.

Thank you for your consideration.

40 - 18 - 14.2. Notice of filing.

1. At the time of filing a judgment under section 40 - 18 - 14, the municipal court judge shall order an affidavit providing the name and last known mailing address of the defendant and otherwise complying with section 28 - 20 - 15 be filed.

2. Upon the filing of the judgment and affidavit as provided in section 40 - 18 - 14, the clerk of ~~district~~ municipal court shall mail notice of the filing of the municipal judgment to the defendant at the ~~address provided and make a note of the mailing in the docket~~ defendant's last known address and file proof of mailing with the district court. The notice must include the name and mailing address of the municipal court. ~~In addition, the municipal judge may order notice of the filing of the judgment be mailed to the defendant and proof of the filing may be filed with the clerk of district court. If proof of mailing by the municipal court has been filed, a failure of the clerk of district court to mail a notice may not effect the enforcement of the proceedings.~~

3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1130

Page 1, line 20 replace "district" with "municipal"

Page 1, line 21 replace "address provided and make a note of the mailing in the docket" with "defendant's last known address and file proof of mailing with the district court"

Page 1, line 22, overstrike "In addition, the municipal"

Page 1, overstrike lines 23-24

Page 2, overstrike lines 1-2

Renumber accordingly

**Senator,**

A Notice must be given in any court order and should not be overlooked in any court judgment for any reason! **This needs to be changed in this bill.**

We cannot have courts overlooking court rules or laws – which does happen a lot!

I know of clerks ordering a sheriff's levy without any change in the judicial order which cannot be allowed to happen and the person the levy is to be put on must have a chance to appear in court to challenge the levy if it is not in line with the judicial order! The bank also should be required to notify its account holder.

Thank you,

**Mr. Mitchell S. Sanderson**

**House Bill 1130**  
**Senate Judiciary Committee**  
**Testimony Presented by Sara Behrens**  
**March 15, 2021**

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am submitting this testimony on House Bill No. 1130 in a neutral capacity. The municipal courts are seeking a way to docket their judgments in district court. The municipal court is a separate court from the district court so in legal terms they are a "foreign" courts. Therefore, the municipal court cannot simply docket the judgment in the same way a district court judgment is docketed. We are aware that it has been a struggle to come up with a method of docketing the judgments, particularly since municipal courts are not courts of record and small municipalities are not part of the Odyssey system. Some cities have already adopted ordinances which allow the municipal court to enforce a judgment like a civil judgment in district court which would allow methods of collection like garnishment of wages. However, my understanding is that the Municipal Judges' Association has requested this legislation because they wish to docket the judgments in district court so the docketed judgments will appear if a defendant were to sell real property. Municipal courts could also bring a small claims court action which would result in a judgment. No attorneys are needed to proceed in small claims court and the filing fee is the same as the filing fee proposed here.

While not appearing in opposition to the bill, the Supreme Court would feel much more comfortable having the municipal clerk send the notice of filing to the defendant and file proof of that mailing with the district court. This bill was modeled after chapter 28-20.1. Chapter 28-20.1 does provide for the district court clerk to send the notice of filing, but foreign judgments are not filed frequently with only 221 foreign judgment cases filed in the entire state in 2020 out of over

154,000 case filings. It is unclear how many municipal court judgments would be filed if this bill passes but the number of municipal cases filed per year is in the thousands. This could put a significant amount of additional obligation on the district court clerks. While we have not requested a fiscal note, there is a possibility of substantial additional staff time being needed.

I have provided a proposed amendment to shift the responsibility for mailing the notice of filing from the district court clerk to the municipal court clerk and ask for your thoughtful consideration of that amendment.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1130

Page 1, line 20 replace "district" with "municipal"

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3. An execution of other process for enforcement of a municipal court judgment filed under this section may not be issued until ten days after the date the judgment is filed.

## TESTIMONY OF ROBERT A. KEOGH RE HB 1130

I write as President of the ND Municipal Judge's Association, and as Dickinson Municipal Judge for 38 years.

HB 1130 has passed the house. This is a bill that I was somewhat involved in developing. Our association at its annual meeting passed a resolution that we have such a bill prepared and introduced into the legislative session. The current version of the bill is not exactly as initially drafted, but our association's Board of Governors supports it.

All this bill does is gives Municipal Court's the same rights as is currently allowed to the District Courts to convert their criminal judgments into civil judgments. At present in order to collect on our criminal judgments the fines or costs owed to our courts or cities is the use of order to show cause hearings, warrants of arrest when defendants don't appear or pay, and sometimes jail. These procedures work when we can locate the defendants, but if the defendants can't be located or are out of state they won't. Civil judgments can be utilized across state lines and defendants would not then be subject to the possibility of incarceration for not paying.

One of the concerns raised in the houses by Rep. Roers-Jones was about the matter of appeals from Municipal Courts. In my experience, virtually all of the cases in which this procedure of converting criminal judgments to civil judgments would occur in cases where the defendants have entered into plea agreements with the city, or simply pled guilty, thus waiving their rights to appeal anyhow. And even where the criminal judgment is the result of a trial and thus a determination of the Municipal Judge of the amount to pay, the bill in its present form does not allow for conversion to a civil judgment until after the time for appeal has expired.

I can also say that a number of defendants have asked me in recent years if they could have their criminal judgments converted to civil. These are likely persons who know that can be done in District Court, and they likely prefer that process to being summoned to Municipal Court to face the possibility of further costs or jail.

I should also say that most criminal judgments that contain conditions other than the payment of fines or costs. I would expect the Municipal Court would demand that those other conditions be met before

the criminal judgment would be converted to civil.

What actual impact this legislation will have on our courts is not known precisely. For my part, I think it is highly unlikely that amounts under \$500 will ever be converted to civil judgments, unless the defendant is from another state. Our city administration would also have to agree to the conversion, as the collection process would then be up to that branch of municipal government.

While I don't have exact numbers, from what I have obtained so far would indicate that the amount of fines and costs currently owing to the Municipal Courts and municipalities across the state is in the range of 4-5 million dollars.

Rob Port has written an editorial critical of Municipal Courts, and has urged the legislature not to pass this bill. He may weigh in again. I do not know what experience influences his thinking on the matter. I would say that the legislature has created the Municipal Courts and given these courts the authority to enforce violations of municipal law. That involves imposing penalties. In some cases, the legislature has mandated certain minimum penalties. For example, for a conviction of a second DUI in the last 7 years, the fine must be \$1,500. If the legislature demands that imposes such a monetary penalty, then it must equally wish that we collect such amounts. The Municipal Courts are doing no more than the law requires us to do in these cases where defendants have been found guilty of or have pled guilty to violating the law. And with this bill, Municipal Judges are simply asking for the same right to convert criminal judgments to civil judgments as the District Court now has, and thus allow us the same civil right to enforcement as the District Court has. We think that is in the best interests of our municipalities, the state, and the defendants.

Mr. Port makes the point that Municipal Judges have no experience in civil proceedings. He apparently thinks that this bill would allow civil judgments to be created in the Municipal Court. That would be a misreading of the bill. The Municipal Court criminal judgment would be converted to a civil judgment in the **District Court**. Once a judgment is converted to civil, the Municipal Court would not be involved any further in the collection process. All collection remedies would be in the District Court.

Mr. Port apparently believes that somehow the fines and costs collected by Municipal Courts should be paid to the state. This is of course a matter for the legislature. But it is likely well known that municipalities incur substantial expense in providing local law enforcement and prosecution, as well as the cost of incarceration.

Thank you for your consideration. I can be reached at 701-290-9146 if anyone has any questions concerning this legislation.

Robert A. (Bob) Keogh

1089 Dell Ave

Dickinson, ND 58601

255 N. 4th St.  
PO Box 5200  
Grand Forks, ND 58206-5200



City of Grand Forks  
(701) 746-4636

## **TESTIMONY ON HOUSE BILL 1130**

### **Senate Judiciary Committee**

**March 15, 2021**

**Daniel L. Gaustad, City Attorney, City of Grand Forks, ND**

Chairman Larson and members of the Senate Judiciary Committee, my name is Daniel L. Gaustad and I am the City Attorney for the City of Grand Forks. I want to thank you for the opportunity to provide testimony and express the City of Grand Forks' support for HB 1130.

The City of Grand Forks, like many cities in North Dakota, relies on a municipal court for enforcement of the Grand Forks City Code. One of the enforcement mechanisms available to the municipal court is issuing fines and fees for violations of municipal ordinances. However, in some circumstances, when an individual is unable to pay the fines and fees, or simply forgets to make a payment, the municipal court then issues an order to show cause and bench warrant for the individual's arrest. This requires an appearance of the individual to explain the missed payment.

The passage of HB 1130 will give the Grand Forks Municipal Court the ability to treat these monetary judgments for violations of municipal ordinances as a civil judgment to prevent a cycle of Orders to Show Cause and bench warrants for failure to pay municipal fines. In turn, this will lessen the burden on municipal courts and jails for individuals who are only being arrested or made to appear because they are unable to pay fines/fees. In sum, HB 1130 will provide the municipal court with an additional option in these circumstances, other than Orders to Show Cause and bench warrants, for failure to pay fines and fees as an alternative means to collect such fines and fees.

Accordingly, the City of Grand Forks respectfully asks for a DO PASS for HB 1130.