

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 228

S. B. No. 273
(Longmire, Reichert)

COMPENSATION OF COURT APPOINTED COUNSEL

AN ACT

To amend and reenact section 29-01-27 of the North Dakota Century Code, relating to compensation for court appointed counsel.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 29-01-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-27. Indigent Defendant—Attorney Appointed—Compensation—Limitation.) In all criminal actions when it is satisfactorily shown to the court that the defendant has no means and is unable to employ counsel, the court shall appoint and assign counsel for his defense and allow and direct to be paid by the county in which such trial is had a reasonable and just compensation to the attorney so assigned for such services as he may render, but such attorney shall not be paid a sum to exceed fifty dollars per day in any one case.

Approved March 15, 1965.

CHAPTER 229

H. B. No. 554
(Jungroth)

CRIMINAL APPEALS

AN ACT

To create and enact section 29-28-30.1, and to amend and reenact sections 29-28-06, 29-28-08, 29-28-11, 29-28-18, 29-28-20, 29-28-23, 29-28-27, and 29-28-28 of the North Dakota Century Code, relating to criminal appeals.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 29-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-06. From What Defendant May Appeal.) An appeal may be taken by the defendant from:

1. A verdict of guilty;
2. A final judgment of conviction;
3. An order refusing a motion in arrest of judgment;
4. An order denying a motion for a new trial; or
5. An order made after judgment affecting any substantial right of the party.

§ 2. **Amendment.)** Section 29-28-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-08. Time for Appeals in Criminal Cases.) An appeal from a verdict or judgment may be taken within three months after its rendition and from an order within sixty days after it is made. The appellant shall file the settled statement of the case and briefs on an appeal from a verdict or judgment in the office of the clerk of district court within six months after the date of verdict or judgment and in an appeal from an order within sixty days after the date thereof. The district court, upon application of the appellant made upon notice to the adverse party before the expiration of the time in which such record shall be filed, may extend such time for a period of not more than three months and further extension may be granted only by the supreme court upon the application of the appellant upon like notice. In case of the failure of the appellant

to file such record within the time allowed by law or within such further time as may be allowed by the court, as provided in this title, said appeal shall be deemed dismissed.

§ 3. **Amendment.)** Section 29-28-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-11. When Appeal Deemed Taken.) An appeal is deemed to be taken when notice thereof, served as required by sections 29-28-09 and 29-28-10, is filed in the office of the clerk of the district court of the county in which the order, verdict, or judgment appealed from is made, entered, or filed, with evidence of the service or publication thereof endorsed thereon or attached thereto.

§ 4. **Amendment.)** Section 29-28-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-18. Transmission of Papers to Supreme Court.) Within ten days after an appeal has been taken, the clerk of the district court with whom the notice of appeal is filed, without charge, shall certify and transmit to the clerk of the supreme court the notice of appeal, undertaking, and certificate of probable cause, if any, and a certified copy of the verdict, judgment, or order appealed from. Upon the filing of the completed record in any appeal, the clerk of the district court immediately shall transmit to the clerk of the supreme court a full and perfect transcript consisting of all papers on file in the case, of all entries in his minutes, the settled statement of the case and briefs, and shall certify the same under his hand and the seal of the court, and the clerk of the supreme court shall file the same and shall perform the same services as in a civil case, without charge.

§ 5. **Amendment.)** Section 29-28-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-20. Irregularity in Substantial Particulars—Notice.) If the appeal is irregular in any substantial particular, but not otherwise, the supreme court, on any day, on motion of the respondent, upon five days' notice accompanied with the copies of the papers upon which the motion is founded, may order it to be dismissed. The dismissal of an appeal affirms the verdict or judgment. If the irregularities complained of are corrected in a reasonable time, the appeal shall not be dismissed and the supreme court must fix the time and direct the manner of correcting the irregularity.

§ 6. **Amendment.)** Section 29-28-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-23. When Verdict or Judgment Must Be Affirmed—Reversal.) The verdict or judgment may be affirmed if the appellant fails to appear, but may be reversed only after argument if the respondent fails to appear.

§ 7. **Amendment.)** Section 29-28-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-27. Court May Review Intermediate Orders.) Upon an appeal taken by the defendant from a verdict or judgment, the supreme court may review any intermediate order or ruling which involves the merits or which may have affected the verdict or judgment adversely to the defendant.

§ 8. **Amendment.)** Section 29-28-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-28. Power of Supreme Court on Appeal.) The supreme court may reverse, affirm, or modify the verdict or judgment or order appealed from, and may set aside, affirm, or modify any or all the proceedings subsequent to or dependent upon such verdict, judgment, or order, and, if proper, may order a new trial. In either case, the action must be remanded to the district court with proper instructions, together with the opinion of the court.

§ 9.) Section 29-28-30.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-28-30.1. Verdict Affirmed—Must Be Enforced.) If a verdict against the defendant is affirmed, the original verdict must stand and any court orders thereon, including suspension and deferred imposition of sentence, must be enforced.

Approved March 15, 1965.