

Office of the Attorney General
State of North Dakota

Opinion No. 81-82

Date Issued: August 3, 1981

Requested by: John M. Olson
Burleigh County State's Attorney

--QUESTIONS PRESENTED--

I.

Whether the clerk of the district court must make a monthly report to the county auditor, pursuant to Section 11-17-05 of the North Dakota Century Code, as to those displaced homemaker fees collected pursuant to Section 14-06.1-15 of the North Dakota Century Code.

II.

Whether the clerk of the district court may deposit those displaced homemaker fees collected with the county treasurer, pursuant to Section 11-17-05, N.D.C.C., for payment to the state treasurer.

--ATTORNEY GENERAL'S OPINION--

I.

It is my opinion that the clerk of the district court must make a monthly report to the county auditor, pursuant to Section 11-17-05, N.D.C.C., as to those displaced homemaker fees collected pursuant to Section 14-06.1-15, N.D.C.C.

II.

It is my further opinion that the clerk of the district court may deposit those displaced homemaker fees collected with the county treasurer, pursuant to Section 11-17-05, N.D.C.C., for payment to the state treasurer.

--ANALYSIS--

I.

Section 11-17-05, N.D.C.C., is quite clear in its requirement that the clerk of court file a statement under oath with the county auditor as to the amount of fees received by the

clerk since the date of the last report. There is nothing in Chapter 14-06.1, N.D.C.C., (which establishes a displaced homemaker program and authorizes the clerk of court to collect a fee upon the filing of a petition for dissolution of a marriage), which contravenes this statutory requirement. As such, the clerk of court must follow this procedure in collecting displaced homemaker fees.

II.

Section 11-17-05, N.D.C.C, is equally as clear in its requirement that moneys received by the clerk of court shall be deposited with the county treasurer. However, Section 14-06-15, N.D.C.C., requires fees received by the clerk of court to 'be paid' by the clerk to the state treasurer.

What appears at first to be a conflict in statutory language is actually a matter of semantics. Section 14-06.1-15, N.D.C.C., requires the fees collected to be 'paid' to the state treasurer. Section 11-17-05, N.D.C.C., on the other hand, requires the clerk to 'deposit' fees collected with the county treasurer.

Section 1-02-07, N.D.C.C., states that conflicting statutes should be reconciled with one another so as to avoid conflict. In applying this rule to the two statutes described, it is clear that displaced homemaker fees collected by the clerk of court shall be deposited with the county treasurer, pursuant to Section 11-17-05, N.D.C.C., who, in turn, shall pay the fees on behalf of the clerk to the state treasurer, pursuant to Section 14-06.1-15, N.D.C.C.

In reconciling the statutes in this way, conflict is avoided and the apparent true intent of the Legislature is carried out.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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