

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 276

S.B. No. 376

(Lips, Chesrown, Holand)
(Longmire, Meschke, Coughlin)

ADDITIONAL COMPENSATION FOR SUPREME AND DISTRICT COURT JUDGES

AN ACT

To provide for additional compensation for the supreme and district court judges of the state, without additional retirement benefits as provided by section 27-17-01.

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

Section 1. Additional Compensation—Supreme and District Court Judges.) In addition to the judicial salaries provided by sections 27-02-02 and 27-05-03 of the Code, each judge of the supreme court and each district court judge serving in such capacity on and after the effective date of this Act shall receive compensation in the sum of two thousand dollars annually paid in equal monthly payments. This Act shall not be construed to increase the benefits to which retired judges of the supreme court and district courts are entitled.

Approved March 29, 1969.

CHAPTER 277

S. B. No. 270
(Chesrown, Freed, Nething, Holand)

SALE OF BOOKS BY SUPREME
COURT REPORTER

AN ACT

To amend and reenact section 27-04-08 of the North Dakota Century Code, relating to the sale and distribution of official reports by supreme court reporter, to authorize the sale or disposal of books and other library materials by supreme court reporter; and to repeal section 27-04-05 of the North Dakota Century Code, relating to opinions and reports of supreme court printed and published by reporter.

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

Section 1. Amendment.) Section 27-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-04-08. Sale and Disposal of Books and Other Library Materials by Supreme Court Reporter.) The supreme court reporter, subject to the direction and control of the supreme court and under such rules and regulations as it may prescribe, may sell or otherwise dispose of such books, pamphlets, leaflets, periodicals, and other library materials as shall come within his care and custody as the state law librarian and as shall be determined by the supreme court to be obsolete or to be useful in trade for other books, pamphlets, leaflets, periodicals, and other library materials. All money received from the sale of such library materials shall be paid to such reporter and shall be deposited by him monthly in the state treasury.

Section 2. Repeal.) Section 27-04-05 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1969.

S. B. No. 397
(Ringsak, Nething)

LOCATION OF DISTRICT JUDGES' CHAMBERS

AN ACT

To amend and reenact section 27-05-08 of the North Dakota Century Code, relating to the location of the chambers of the district judges.

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

Section 1. Amendment.) Section 27-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-08. Chambers—Residence.)

1. The locations of the chambers of the district judges in each of the respective districts, until changed by order of the supreme court, shall be as follows:
 - a. First judicial district, in the cities of Grand Forks, Fargo, and Valley City;
 - b. Second judicial district, in the cities of Devils Lake, Rugby, and Grafton;
 - c. Third judicial district, in the cities of Wahpeton and Lisbon;
 - d. Fourth judicial district, in the cities of Bismarck and Jamestown;
 - e. Fifth judicial district, in the cities of Minot and Williston;
 - f. Sixth judicial district, in the cities of Mandan, Dickinson, and Hettinger.
2. Each district judge shall reside within the county where his chambers are located, and, for the purposes of this section, the chief justice of the supreme court shall

designate the respective chambers within the district to which each district judge is assigned.

Approved March 20, 1969.

CHAPTER 279

S. B. No. 184
(Longmire)

HOLDING OF CONSECUTIVE JURY TERMS
OF COURT

AN ACT

To amend and reenact section 27-05-18 of the North Dakota Century Code, relating to the holding of consecutive jury terms of court.

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

Section 1. Amendment.) Section 27-05-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-18. District Judges Prohibited from Holding Consecutive Jury Terms—Exception.) Except in the counties of Cass, Burleigh, Grand Forks, and Ward, no judge of a district court of this state shall hold two consecutive jury terms of court in any county in his judicial district unless permission therefor has been given by the supreme court upon good cause shown.

Approved March 17, 1969.

CHAPTER 280

H. B. No. 139

(Bunker, Atkinson, Ganser, Kelsch, Bullis)

(Aas, Register)

SALARY AND EXPENSES OF COURT REPORTER

AN ACT

To amend and reenact section 27-06-02 of the North Dakota Century Code, relating to salary and expenses of court reporter.

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

Section 1. Amendment.) Section 27-06-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-02. Salary and Expenses of Court Reporter.) Each court reporter shall receive a salary not to exceed ten thousand five hundred dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be apportioned according and in proportion to the number of suits entered and commenced in the district court of the respective counties of such district in the preceding year. The presiding judge of each judicial district, on the first day of January of each year, or as soon thereafter as may be, shall apportion the amount of such salary to be paid by each county in his district on the basis aforesaid, and the county auditors of the respective counties in such judicial district shall issue to the order of such court reporter a warrant for the amount shown to be due by such apportionment. As reimbursement for expenses incurred in the performance of official duties outside of the county where the district court chambers are situated, the court reporter shall receive expense allowances in accordance with the provisions of section 44-08-04. Such sums shall be paid monthly by the county wherein such court reporter is attending to such official duties, when approved by the board of county commissioners. Claims for transportation expenses shall not exceed amounts provided by section 54-06-09 and shall be in item-

ized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation expenses shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

Approved March 5, 1969.

CHAPTER 281

S. B. No. 395
(Meschke)

COLLECTION AND DEPOSIT OF CERTAIN FEES BY COUNTY COURT

AN ACT

To amend and reenact section 27-07-40 of the North Dakota Century Code, to permit the county court to collect certain fees as set forth and to deposit them monthly with the county treasurer.

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

Section 1. Amendment.) Section 27-07-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-40. Filing Fees for Estates and Guardianships—Amount—When and Where To Be Paid.) Before a petition for letters testamentary, of administration, of guardianship, of proceedings in heirship, or an application in joint tenancy to determine estate tax, is filed in a county court of this state, the petitioner, or someone on his behalf, shall pay a filing fee to said county court for deposit by that office into the county treasury of the county in which the court is located which shall be in the sum of seven dollars and fifty cents, except that the filing fee for applications in joint tenancy to determine estate tax shall be in the sum of three dollars and such filing fee for applications in joint tenancy to determine estate tax shall not be subject to the provisions of section 27-07-41.

Approved March 20, 1969.

CHAPTER 282

H. B. No. 322
(Kelsch, Aamoth)

**SALARY OF JUDGE OF COUNTY COURT
OF INCREASED JURISDICTION**

AN ACT

To amend and reenact section 27-08-08 of the North Dakota Century Code, relating to the salaries of judges of county courts of increased jurisdiction.

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

Section 1. Amendment.) Section 27-08-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-08. Salaries of Judges of County Courts of Increased Jurisdiction—Amount, Payment.) A county judge of a county court of this state having increased jurisdiction shall receive the following salary: eleven thousand dollars in counties having a population not exceeding fifteen thousand inhabitants; thirteen thousand five hundred dollars in counties having a population exceeding fifteen thousand inhabitants but not exceeding twenty-two thousand inhabitants; and fifteen thousand dollars in counties having a population exceeding twenty-two thousand inhabitants. Such salary shall be payable by the county in equal monthly installments and shall be full remuneration for all official duties including all fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies. All fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies shall be deposited by the court into the county treasury of the county in which the court is located.

Approved March 29, 1969.

CHAPTER 283

S. B. No. 118
(Chesrown, Freed, Holand)

APPELLATE JURISDICTION OF COUNTY COURTS
OF INCREASED JURISDICTION

AN ACT

To amend and reenact sections 27-08-21 and 40-18-19 of the North Dakota Century Code, relating to appellate jurisdiction of county courts of increased jurisdiction and appeals from determinations of municipal judge.

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

Section 1. Amendment.) Section 27-08-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-21. Appellate Jurisdiction of County Courts of Increased Jurisdiction.) County courts having increased jurisdiction shall have concurrent jurisdiction with the district courts in appeals from all final judgments entered in municipal courts, and the proceedings on such appeals shall be the same as those which now are or hereafter may be provided for appeals from judgments of county justices to district courts.

Section 2. Amendment.) Section 40-18-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-19. Appeals from Determinations of Municipal Judge.) An appeal may be taken to the district court or to the county court of increased jurisdiction as provided for in section 27-08-21 from a judgment of conviction in a municipal judge's court in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in justice court, and in accordance with sections 33-12-34, 33-12-35, and 33-12-39, and shall be tried in the district court or county court of increased jurisdiction in accordance with sections 33-12-40 and 33-12-41, and bail shall be taken in accordance with sections 33-12-36 and 33-12-37, and witnesses may be

placed under bond as provided for in section 33-12-38. On all appeals from a determination in a municipal judge's court the court shall take judicial notice of all of the ordinances of the city. No filing fee shall be required for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance.

Approved March 8, 1969.

CHAPTER 284

S. B. No. 117

(Chesrown, Freed, Holand)

PLEAD COUNTERCLAIMS IN EXCESS OF JURISDICTION OF COUNTY COURT OF INCREASED JURISDICTION

AN ACT

Permitting the pleading of cross-claims or counterclaims in civil actions in county courts of increased jurisdiction in excess of the jurisdiction of the court and providing for the procedure and filing fee for the transfer of such actions to the district court.

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

Section 1. Procedure Permitting Pleading of Cross-Claims or Counterclaims in Excess of Jurisdiction of County Courts of Increased Jurisdiction.) In all civil actions instituted in a county court of increased jurisdiction a defendant shall have the right to plead a cross-claim or a counterclaim, compulsory or permissive, in excess of the jurisdiction of the court. When the amount in controversy measured by the value of the relief sought in either a cross-claim or counterclaim exceeds one thousand dollars or asks for affirmative equitable relief, the county court shall proceed no further with a determination of the rights of the parties provided that such pleading in excess of jurisdiction shall be accompanied by a motion requesting that the case be transferred to the district court of the same county as the court from which the transfer is requested. The movant shall tender, with his motion, a filing fee of seven dollars and fifty cents which shall be paid to the clerk

of the district court in event the motion is granted. In the absence of such motion the cross-claim or counterclaim must be stricken and the case must proceed as though no counterclaim or cross-claim had been pleaded.

When the transfer of a case from the county court to the district court has been ordered pursuant to this Act the clerk of the county court shall forthwith certify to the district court all of the original pleadings and other papers and documents pertaining to the case accompanied by a certified copy of the order of transfer and an itemized certificate of transmittal. Upon receipt of a certificate and order as above provided the district court shall have the jurisdiction to proceed with the case as though it had been originally commenced in the district court including the power to permit or direct appropriate amendments of pleadings.

Approved March 8, 1969.

CHAPTER 285

H. B. No. 58
(Aamoth)

ATTORNEY LICENSE FEE

AN ACT

To amend and reenact section 27-11-22 of the North Dakota Century Code, relating to annual licenses to practice law—requirement—issuance—fees.

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

Section 1. Amendment.) Section 27-11-22 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. Annual Licenses to Practice Law—Requirement—Issuance—Fees.) Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law or hold judicial office therein, on or before the first day of January of each calendar year, shall secure an

annual license from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee established by the state bar association at their last annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed one hundred dollars and shall be good for one year from and after the first day of January of the year for which it is issued.

Approved March 8, 1969.

CHAPTER 286

H. B. No. 159
(Bullis, Aas, Atkinson)

ANNUAL PAYMENTS TO STATE BAR ASSOCIATION

AN ACT

To amend and reenact section 27-12-04 of the North Dakota Century Code, relating to moneys payable from the state bar fund to the state bar association.

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

Section 1. Amendment.) Section 27-12-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-04. Moneys payable from State Bar Fund to State Bar Association.) The state bar association of North Dakota, out of the state bar fund, annually shall receive eighty percent of the annual license fees paid by licensed members, for the purpose of paying for the printing and distribution of the annual report and proceedings of said association and for the payment of other necessary expenses of the association. Such sum shall be paid quarterly into the treasury of the said association by the secretary-treasurer of the state bar board upon vouchers drawn by the president and secretary-treasurer of said association.

Approved March 5, 1969.

CHAPTER 287

H. B. No. 164
(Giffey)

COUNTY JUSTICE'S TERM OF OFFICE

AN ACT

To amend and reenact section 27-18-02 of the North Dakota Century Code extending the term of county justice to four (4) years.

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

Section 1. Amendment.) Section 27-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-18-02. Qualifications and Tenure of County Justice.) The county justice shall be licensed to practice law in this state but need not be an elector of the county for which he is elected or appointed, and shall hold office for a term of four years commencing at the same date as the term of the county judge. The county justice so elected or appointed may serve more than one county.

Approved March 5, 1969.

CHAPTER 288

H. B. No. 257
(Bullis)

COMPENSATION OF COUNTY JUSTICES

AN ACT

To amend and reenact section 27-18-03 of the North Dakota Century Code, relating to the salary of county justices.

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

Section 1. Amendment.) Section 27-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-18-03. Compensation of County Justice—Amount—Payment.) The county justice shall receive as full compensation for his services an annual salary not exceeding the sum of five thousand dollars, as may be determined from time to time by the board of county commissioners of the county for which he is elected or appointed. In addition thereto, the county justice shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed the district court reporter. The salary and travel expenses, as the case may be, shall be paid by the county for which he is elected or appointed or shall be equitably apportioned by the several boards of county commissioners among the several counties as are served by such county justice. Such compensation shall be paid monthly by the county treasurers of the respective counties upon properly verified claims as other claims against the county are allowed and paid.

Approved March 13, 1969.

CHAPTER 289

S. B. No. 350
(Longmire, Holand)

UNIFORM JUVENILE COURT
ACT

AN ACT

To create and enact chapter 27-20 of the North Dakota Century Code, relating to the creation of the juvenile court and constituting the Uniform Juvenile Court Act; to provide for the jurisdiction of the juvenile court, the care and custody of deprived children, the termination of the relationship of parent and child, and the care, custody, control, treatment and rehabilitation of delinquent and unruly children; to amend sections 12-46-14 and 27-05.1-16 of the North Dakota Century Code, relating to the transportation of persons committed to the state training school and the assistance to be given by juvenile commissioners to the family court; and to repeal chapters 27-16 and 50-14 of the North Dakota Century Code.

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

Section 1.) Chapter 27-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-20-01. Interpretation.) This chapter shall be construed to effectuate the following public purposes:

1. To provide for the care, protection, and wholesome moral, mental, and physical development of children coming within its provisions;
2. Consistent with the protection of the public interest, to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to substitute therefor a program of treatment, training and rehabilitation;
3. To achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interest of public safety;
4. To provide a simple judicial procedure through which this chapter is executed and enforced and in which the

parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced; and

5. To provide simple interstate procedures which permit resort to cooperative measures among the juvenile courts of the several states when required to effectuate the purposes of this chapter.

27-20-02. Definitions.) As used in this chapter:

1. "Child" means an individual who is:
 - a. Under the age of eighteen years, or
 - b. Under the age of twenty-one years who committed an act of delinquency before reaching the age of eighteen years.
2. "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law, and the crime does not fall under paragraph c of subsection 4 and is not a minor traffic offense as defined in subsection 10.
3. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
4. "Unruly child" means a child who:
 - a. While subject to compulsory school attendance is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or
 - c. Has committed an offense applicable only to a child; and
 - d. In any of the foregoing is in need of treatment or rehabilitation.

5. "Deprived child" means a child who:
 - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of his parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law; or
 - c. Has been abandoned by his parents, guardian, or other custodian.
6. "Shelter care" means temporary care of a child in physically unrestricted facilities.
7. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.
8. "Custodian" means a person, other than a parent or legal guardian, who stands in 'loco parentis' to the child or a person to whom legal custody of the child has been given by order of a court.
9. "Juvenile court" means the district court of this state.
10. "Minor traffic offense" means a violation of a law or local ordinance or resolution governing the operation of a vehicle upon the highways of this state, or the waterways within or adjoining this state, other than negligent homicide, manslaughter, driving or being in control of a vehicle upon a highway while under the influence of intoxicating liquor, a narcotic or a drug, aggravated reckless driving, and driving a motor vehicle without, or during suspension of, a driver's license or permit.

27-20-03. Jurisdiction.)

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
 - a. Proceedings in which a child is alleged to be delin-

quent, unruly, or deprived;

- b. Proceedings for the termination of parental rights except when a part of an adoption proceeding; and
 - c. Proceedings arising under sections 27-20-39 through 27-20-42.
2. The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this chapter:
- a. Proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law;
 - b. Proceedings under the Interstate Compact on Juveniles; and
 - c. Proceedings under the Interstate Compact on the Placement of Children.

27-20-04. Concurrent Jurisdiction.) The juvenile court has concurrent jurisdiction with the county mental health board of proceedings to treat or commit a mentally retarded or mentally ill child otherwise subject to the jurisdiction of the court.

27-20-05. Juvenile Court Personnel.)

1. The court may appoint one or more juvenile supervisors who shall serve at the pleasure of the court. Juvenile supervisors have the powers and duties stated in section 27-20-06. If more than one juvenile supervisor is appointed, one may be designated by the court as the chief juvenile supervisor or director of court services, who shall be responsible for the administration of juvenile court services under the direction of the court.
2. Each juvenile supervisor shall receive as full compensation for his services such amount as may be fixed from time to time by the judge who appointed him, or by his successor, either upon a per diem basis not exceeding ten dollars per day for the time actually and necessarily employed in the discharge of his duties, or upon a salary

basis not exceeding eleven thousand dollars per annum. In addition, the juvenile supervisor shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

3. In addition to referees authorized by section 27-20-07, a judge of the juvenile court, in his discretion and subject to approval of the board of county commissioners of the county or counties affected, may also provide for the employment of probation officers, clerical and other specialized personnel under the direction and supervision of the judge, to assist the court and juvenile supervisors in carrying out the provisions of this chapter. Personnel so employed shall receive as full compensation for their services such amount as may be fixed and approved from time to time by the judge of the juvenile court assisted, subject to approval of the board of county commissioners of the county or counties affected, together with reasonable travel expenses, in the manner and subject to the limitations and apportionment applicable to juvenile supervisors.
4. All salaries, per diem, and other compensation payable to juvenile court personnel, other than the judge, the cost of providing suitable quarters for conducting official business, all necessary books, forms, stationery, office supplies and equipment, postage, telephone, travel and other necessary expenses incurred in carrying out the provisions of this chapter shall be borne by the counties affected and may be apportioned among them by the judge. Such compensation and expenses shall be paid monthly by the county treasurer of the respective counties affected upon properly certified claims and upon approval of the judge as other claims against the county are allowed and paid.

27-20-06. Powers and Duties of Juvenile Supervisors.)

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a juvenile supervisor shall:
 - a. Make investigations, reports, and recommendations

to the juvenile court;

- b. Receive and examine complaints and charges of delinquency, unruly conduct or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter;
 - c. Supervise and assist a child placed on probation or in his protection, supervision, or care by order of the court or other authority of law;
 - d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable;
 - e. Take into custody and detain a child who is under his supervision or care as a delinquent, unruly, or deprived child if he has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter. Except as provided by this chapter, a juvenile supervisor does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this chapter against a child who is or may be under his care or supervision; and
 - f. Perform all other functions designated by this chapter or by order of the court pursuant thereto, including, if qualified, those of a referee. Juvenile supervisors who are serving as juvenile commissioners on the effective date of this chapter may perform the functions of a referee under this chapter without being members of the bar.
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

27-20-07. Referees.)

1. The judge may appoint one or more persons to serve at the pleasure of the judge as referees on a full or part-time basis. A referee shall be a member of the bar. His

compensation shall be fixed by the judge with the approval of the board of county commissioners of each county affected and paid as provided in subsection 4 of section 27-20-05.

2. The judge may direct that hearings in any case or class of cases be conducted in the first instance by the referee in the manner provided by this chapter and Rule 53 of the North Dakota Rules of Civil Procedure.
3. The parties to the proceedings are entitled to have the matter heard by the judge if written request therefor is filed within three days after receiving an order of reference or a written notice of the hearing which must also inform them of this right.
4. Upon the conclusion of a hearing before a referee, he shall promptly transmit written findings and recommendations for disposition to the judge. Written notice and copies of the findings and recommendations shall be promptly given to the parties.
5. A review of the findings and recommendations pursuant to Rule 53 of the North Dakota Rules of Civil Procedure may be ordered at any time by the judge and shall be ordered if a party files written request therefor within three days after receiving the notice required in subsection 4 which must also inform them of this right.
6. Unless a review is ordered, the findings and recommendations become the findings and order of the court upon confirmation in writing by the judge.

27-20-08. Commencement of Proceedings.) A proceeding under this chapter may be commenced:

1. By transfer of a case from another court as provided in section 27-20-09;
2. By the court accepting jurisdiction as provided in section 27-20-40 or accepting supervision of a child as provided in section 27-20-42; or
3. In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the

proceeding shall be entitled "In the interest of _____, a child."

27-20-09. Transfer from Other Courts.) If it appears to the court in a criminal proceeding that the defendant is a child, the court shall forthwith transfer the case to the juvenile court together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. It shall order that the defendant be taken forthwith to the juvenile court or to a place of detention designated by the juvenile court, or release him to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brought before the juvenile court at a time designated by that court. The accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs the filing of a petition.

27-20-10. Informal Adjustment.)

1. Before a petition is filed, the juvenile supervisor or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:
 - a. The admitted facts bring the case within the jurisdiction of the court;
 - b. Counsel, advice and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
 - c. The child and his parents, guardian or other custodian consent thereto with knowledge that consent is not obligatory.
2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond three months from the day commenced unless extended by the court for an additional period not to exceed three months and does not authorize the detention of the child if not otherwise permitted by this chapter.

3. An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto shall not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding against him after conviction for the purpose of a pre-sentence investigation.

27-20-11. Venue.) A proceeding under this chapter may be commenced in the county in which the child resides. If delinquent or unruly conduct is alleged, the proceeding may be commenced in the county in which the acts constituting the alleged delinquent or unruly conduct occurred. If deprivation is alleged, the proceeding may be brought in the county in which the child is present when it is commenced.

27-20-12. Transfer to Another Juvenile Court Within the State.)

1. If the child resides in a county of the state and the proceeding is commenced in a court of another county, the court, on motion of a party or on its own motion made prior to final disposition, may transfer the proceeding to the county of the child's residence for further action. Like transfer may be made if the residence of the child changes pending the proceeding. The proceeding shall be transferred if the child has been adjudicated delinquent or unruly and other proceedings involving the child are pending in the juvenile court of the county of his residence.
2. Certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the court shall accompany the transfer.

27-20-13. Taking Into Custody.)

1. A child may be taken into custody:
 - a. Pursuant to an order of the court under this chapter;
 - b. Pursuant to the laws of arrest;

- c. By a law enforcement officer or a juvenile supervisor if there are reasonable grounds to believe (1) that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal is necessary, or (2) that the child has run away from his parents, guardian, or other custodian.

2. The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Constitution of this state or of the United States.

27-20-14. Detention of Child.) A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this chapter.

27-20-15. Release or Delivery to Court.)

1. A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
 - a. Release the child to his parent, guardian, or other custodian upon his promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under section 27-20-14; or
 - b. Bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice thereof, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any temporary detention or questioning of the child necessary to comply with this subsection shall conform to the procedures and conditions prescribed by this chapter and rules of court.

2. If a parent, guardian, or other custodian, when requested, fails to bring the child before the court as provided in subsection 1 the court may issue its warrant directing that the child be taken into custody and brought before the court.

27-20-16. Place of Detention.)

1. A child alleged to be delinquent may be detained only in:
 - a. A licensed foster home or a home approved by the court;
 - b. A facility operated by a licensed child welfare agency;
 - c. A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court; or
 - d. Any other suitable place or facility, designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.
2. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.
3. If a case is transferred to another court for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

4. A child alleged to be deprived or unruly may be detained or placed in shelter care only in the facilities stated in subdivisions a, b, and d, of subsection 1 and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent.

27-20-17. Release from Detention or Shelter Care—Hearing—Conditions of Release.)

1. If a child is brought before the court or delivered to a detention or shelter care facility designated by the court the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under section 27-20-14.
2. If he is not so released, a petition under section 27-20-21 shall be promptly made and presented to the court. An informal detention hearing shall be held promptly and not later than seventy-two hours after he is placed in detention to determine whether his detention or shelter care is required under section 27-20-14. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency or unruly conduct.
3. If the child is not so released and a parent, guardian or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files his affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order his release, unless it appears from the hearing that the child's detention or shelter care is required under section 27-20-14.

27-20-18. Subpoena.) Upon application of a party the court or the clerk of the court shall issue, or the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

27-20-19. Petition—Preliminary Determination.) A petition under this chapter shall not be filed unless the juvenile supervisor, the court, or other person authorized by the court has determined and endorsed upon the petition that the filing of the petition is in the best interest of the public and the child.

27-20-20. Petition—Who May Make.) Subject to section 27-20-19 the petition may be made by any person, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true.

27-20-21. Contents of Petition.) The petition shall be verified and may be on information and belief. It shall set forth plainly:

1. The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation;
2. The name, age, and residence address, if any, of the child on whose behalf the petition is brought;
3. The names and residence addresses, if known to petitioner, of the parents, guardian, or custodian of the child and of the child's spouse, if any. If none of his parents, guardian, or custodian resides or can be found within the state, or if their respective places of residence address are unknown, the name of any known adult relative residing within the county, or, if there be none, the known adult relative residing nearest to the location of the court; and
4. Whether the child is in custody and, if so, the place of his detention and the time he was taken into custody.

27-20-22. Summons.)

1. After the petition has been filed the court shall fix a time for hearing thereon, which, if the child is in detention, shall not be later than ten days after the filing of the petition. The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian

ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is fourteen or more years of age or is alleged to be a delinquent or unruly child. A copy of the petition shall accompany the summons unless the summons is served by publication in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition can be obtained.

2. The court may endorse upon the summons an order directing the parents, guardian or other custodian of the child to appear personally at the hearing and directing the person having the physical custody or control of the child to bring the child to the hearing.
3. If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering his health or welfare or those of others, or that he may abscond or be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer shall serve the summons and take the child into immediate custody and bring him forthwith before the court.
4. The summons shall state that a party is entitled to counsel in the proceedings and that the court will appoint counsel if the party is unable without undue financial hardship to employ counsel.
5. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, his counsel, with the consent of the parent, guardian or other custodian, or guardian ad litem, may waive service of summons in his behalf.

27-20-23. Service of Summons.)

1. If a party to be served with a summons is within this state and can be found, the summons shall be served up-

on him personally at least twenty-four hours before the hearing. If he is within this state and cannot be found, but his address is known or can with reasonable diligence be ascertained, the summons may be served upon him by mailing a copy by registered or certified mail at least five days before the hearing. If he is without this state but he can be found or his address is known, or his whereabouts or address can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to him personally or mailing a copy to him by registered or certified mail at least five days before the hearing.

2. If after reasonable effort he cannot be found or his post-office address ascertained, whether he is within or without this state, the court may order service of the summons upon him by publication in accordance with Rule 4 of the North Dakota Rules of Civil Procedure. The hearing shall not be earlier than five days after the date of the last publication.
3. Service of the summons may be made by any suitable person under the direction of the court.
4. The court may authorize the payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

27-20-24. Conduct of Hearings.)

1. Hearings under this chapter shall be conducted by the court without a jury, in an informal but orderly manner, and separately from other proceedings not included in section 27-20-03.
2. The state's attorney upon request of the court shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
3. The proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.

4. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, and other persons accompanying a party for his assistance, and any other persons as the court finds have a proper interest in the proceedings or in the work of the court may be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency or unruly conduct are being heard.

27-20-25. Service By Publication—Interlocutory Order of Disposition.)

1. If service of summons upon a party is made by publication the court may conduct a provisional hearing upon the allegations of the petition and enter an interlocutory order of disposition if:
 - a. The petition alleges delinquency, unruly conduct, or deprivation of the child;
 - b. The summons served upon any party (1) states that prior to the final hearing on the petition designated in the summons a provisional hearing thereon will be held at a specified time and place, (2) requires the party who is served other than by publication to appear and answer the allegations of the petition at the provisional hearing, (3) states further that findings of fact and orders of disposition made pursuant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing, and (4) otherwise conforms to section 27-20-22; and
 - c. The child is personally before the court at the provisional hearing.
2. All provisions of this chapter applicable to a hearing on a petition, to orders of disposition, and to other proceedings dependent thereon shall apply under this section, but findings of fact and orders of disposition have only interlocutory effect pending the final hearing on the petition. The rights and duties of the party served by publication are not affected except as provided in subsection 3.

3. If the party served by publication fails to appear at the final hearing on the petition the findings of fact and interlocutory orders made become final without further evidence and are governed by this chapter as if made at the final hearing. If the party appears at the final hearing the findings and orders shall be vacated and disregarded and the hearing shall proceed upon the allegations of the petition without regard to this section.

27-20-26. Right to Counsel.)

1. Except as otherwise provided under this chapter, a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and, if as a needy person he is unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if he is a needy person. The court may continue the proceeding to enable a party to obtain counsel and shall provide counsel for an unrepresented needy person upon his request. Counsel must be provided for a child not represented by his parent, guardian, or custodian. If the interests of two or more parties conflict separate counsel shall be provided for each of them.
2. A needy person is one who at the time of requesting counsel is unable without undue financial hardship to provide for full payment of legal counsel and all other necessary expenses for representation.

27-20-27. Other Basic Rights.)

1. A party is entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine adverse witnesses.
2. A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. An extrajudicial statement, if obtained in the course of violation of this chapter or which would be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allega-

tions made against him. A confession validly made by a child out of court is insufficient to support an adjudication of delinquency unless it is corroborated in whole or in part by other evidence.

27-20-28. Investigation and Report.)

1. If the allegations of a petition are admitted by a party or notice of a hearing under section 27-20-34 has been given, the court, prior to the hearing on need for treatment or rehabilitation and disposition, may direct that a social study and report in writing to the court be made by the juvenile supervisor or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 27-20-34 has not been given, the court shall not direct the making of the study and report until after the court has heard the petition upon notice of hearing given pursuant to this chapter and the court has found that the child committed a delinquent act or is an unruly or deprived child.
2. During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician or psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.

27-20-29. Hearing—Findings—Dismissal.)

1. After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a deprived child, or if the petition alleges that the child is delinquent or unruly, whether the acts ascribed to the child were committed by him. If the court finds that the child is not a deprived child or that the allegations of delinquency or unruly conduct have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore or-

dered in the proceeding.

2. If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent or unruly it shall proceed immediately or at a postponed hearing to hear evidence as to whether the child is in need of treatment or rehabilitation and to make and file its findings thereon. In the absence of evidence to the contrary evidence of the commission of acts which constitute a felony is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds that the child is not in need of treatment or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.
3. If the court finds from clear and convincing evidence that the child is deprived or that he is in need of treatment or rehabilitation as a delinquent or unruly child, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.
4. In hearings under subsections 2 and 3 all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed.
5. On its motion or that of a party the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition or the need for treatment or rehabilitation. In this event the court shall make an appropriate order for detention of the child or his release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his home before an order of disposition has been made.

27-20-30. Disposition of Deprived Child.)

1. If the child is found to be a deprived child the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
 - a. Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child;
 - b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
 - (1) Any individual who, after study by the juvenile supervisor or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child;
 - (2) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child;
 - (3) The director of the county welfare board or other public agency authorized by law to receive and provide care for the child;
 - (4) An individual in another state with or without supervision by an appropriate officer under section 27-20-40; or
 - c. Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 27-20-39 if the child is or is about to become a resident of that state.
2. Unless a child found to be deprived is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

27-20-31. Disposition of Delinquent Child.) If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, rehabilitation, and welfare:

1. Any order authorized by section 27-20-30 for the disposition of a deprived child;
2. Placing the child on probation under the supervision of the juvenile supervisor, probation officer, or other appropriate officer of the court or of the court of another state as provided in section 27-20-41 or the director of the county welfare board under conditions and limitations the court prescribes;
3. Placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority; or
4. Committing the child to the state industrial school or to a state department to which commitment of delinquent or unruly children may be made.

27-20-32. Disposition of Unruly Child.) If the child is found to be unruly the court may make any disposition authorized for a delinquent child except commitment to the state industrial school. If after making the disposition the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under the disposition made it may make a disposition otherwise authorized by section 27-20-31.

27-20-33. Order of Adjudication—Non-Criminal.)

1. An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of a crime.
2. The disposition of a child and evidence adduced in a hearing in juvenile court may not be used against him

in any proceeding in any court other than a juvenile court, whether before or after reaching majority, except in dispositional proceedings after conviction of a felony for the purposes of a pre-sentence investigation and report.

27-20-34. Transfer to Other Courts.)

1. After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances or resolutions of this state, the court before hearing the petition on its merits may transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:
 - a. The child was sixteen or more years of age at the time of the alleged conduct;
 - b. A hearing on whether the transfer should be made is held in conformity with sections 27-20-24, 27-20-26, and 27-20-27;
 - c. Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing;
 - d. The court finds that there are reasonable grounds to believe that
 - (1) The child committed the delinquent act alleged;
 - (2) The child is not amenable to treatment or rehabilitation as a juvenile through available facilities;
 - (3) The child is not committable to an institution for the mentally retarded or mentally ill; and
 - (4) The interests of the community require that the child be placed under legal restraint or discipline.
2. The transfer terminates the jurisdiction of the juvenile court over the child with respect to the delinquent acts

alleged in the petition.

3. No child, either before or after reaching eighteen years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.
4. Statements made by the child after being taken into custody and prior to the service of notice under subsection 1 or at the hearing under this section are not admissible against him over objection in the criminal proceedings following the transfer.
5. If the case is not transferred the judge who conducted the hearing shall not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge he likewise is disqualified over objection from presiding in the prosecution.

27-20-35. Disposition of Mentally Ill or Mentally Retarded Child.)

1. If, at a dispositional hearing of a child found to be a delinquent or unruly child or at a hearing to transfer a child to another court under section 27-20-34, the evidence indicates that the child may be suffering from mental retardation or mental illness the court before making a disposition shall commit the child for a period not exceeding sixty days to an appropriate institution, agency, or individual for study and report on the child's mental condition.
2. If it appears from the study and report that the child is committable under the laws of this state as a mentally retarded or mentally ill child the court shall order the child detained and direct that within ten days after the order is made the appropriate authority initiate proceedings for the child's commitment.
3. If it does not so appear, or proceedings are not promptly initiated, or the child is found not to be committable, the court shall proceed to the disposition or transfer of the child as otherwise provided by this chapter.

27-20-36. Limitations of Time on Orders of Disposition.)

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition committing a delinquent or unruly child to the state industrial school continues in force for two years, excluding any period of time the child is on parole from the institution, or until the child is sooner discharged by the institution. The court which made the order may extend its duration for additional two-year periods subject to like discharge, if:
 - a. A hearing is held upon motion of the institution, or on the court's own motion, prior to the expiration of the order;
 - b. Reasonable notice of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or other custodian; and
 - c. The court finds that the extension is necessary for the treatment or rehabilitation of the child.
3. Any other order of disposition continues in force for not more than two years. The court may sooner terminate its order or extend its duration for further periods. An order of extension may be made if:
 - a. A hearing is held prior to the expiration of the order upon motion of a party or on the court's own motion;
 - b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
 - c. The court finds that the extension is necessary to accomplish the purposes of the order extended; and
 - d. The extension does not exceed two years from the expiration of the prior order.
4. Except as provided in subsection 2 the court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if

it appears to the court that the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination the order may be made only after reasonable notice and opportunity to be heard have been given to him.

5. Except as provided in subsection 1 when the child reaches twenty-one years of age, all orders affecting him then in force terminate and he is discharged from further obligation or control.

27-20-37. Modification or Vacation of Orders.)

1. An order of the court shall be set aside if (a) it appears that it was obtained by fraud or mistake sufficient therefor in a civil action, or (b) the court lacked jurisdiction over a necessary party or of the subject matter, or (c) newly discovered evidence so requires.
2. Except an order committing a delinquent or unruly child to the state industrial school, an order terminating parental rights, or an order of dismissal, an order of the court may also be changed, modified, or vacated on the ground that changed circumstances so require in the best interest of the child. An order granting probation to a child found to be delinquent or unruly may be revoked on the ground that the conditions of probation have not been observed.
3. Any party to the proceeding, the juvenile supervisor or other person having supervision or legal custody of or an interest in the child may petition the court for the relief provided in this section. The petition shall set forth in concise language the grounds upon which the relief is requested.
4. After the petition is filed the court shall fix a time for hearing and cause notice to be served (as a summons is served under section 27-20-23) on the parties to the proceeding or affected by the relief sought. After the hearing, which may be informal, the court shall deny or grant relief as the evidence warrants.

27-20-38. Rights and Duties of Legal Custodian.) A custodian to whom legal custody has been given by the court under

this chapter has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

27-20-39. Disposition of Nonresident Child.)

1. If the court finds that a child who has been adjudged to have committed a delinquent act or to be unruly or deprived is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to section 27-20-39 and 27-20-40, the court may defer hearing on need for treatment or rehabilitation and disposition and request by any appropriate means the juvenile court of the county of the child's residence or prospective residence to accept jurisdiction of the child.
2. If the child becomes a resident of another state while on probation or under protective supervision under order of a juvenile court of this state, the court may request the juvenile court of the county of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.
3. Upon receipt and filing of an acceptance the court of this state shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide that court with certified copies of the order adjudging the child to be a delinquent, unruly, or deprived child, of the order of transfer, and if the child is on probation or under protective supervision under order of the court, of the order of disposition. It also shall provide that court with a statement of the facts found by the court of this state and any recommendations and other information it considers of assistance to the accepting court in making a disposition of the case or in supervising the child on probation or otherwise.

4. Upon compliance with subsection 3 the jurisdiction of the court of this state over the child is terminated.

27-20-40. Disposition of Resident Child Received from Another State.)

1. If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to sections 27-20-39 and 27-20-40, requests a juvenile court of this state to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or deprived child, and the court of this state finds, after investigation that the child is, or is about to become, a resident of the county in which the court presides, it shall promptly and not later than fourteen days after receiving the request issue its acceptance in writing to the requesting court and direct its juvenile supervisor or other person designated by it to take physical custody of the child from the requesting court and bring him before the court of this state or make other appropriate provisions for his appearance before the court.
2. Upon the filing of certified copies of the orders of the requesting court (a) determining that the child committed a delinquent act or is an unruly or deprived child, and (b) committing the child to the jurisdiction of the juvenile court of this state, the court of this state shall immediately fix a time for a hearing on the need for treatment or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.
3. The hearing and notice thereof and all subsequent proceedings are governed by this chapter. The court may make any order of disposition permitted by the facts and this chapter. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or deprived child and of the facts found by the court in making the orders, subject only to section 27-20-37. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this state. The court may modify or vacate the order in

accordance with section 27-20-37.

27-20-41. Ordering Out-Of-State Supervision.)

1. Subject to the provisions of this chapter governing dispositions and to the extent that funds of the county are available the court may place a child in the custody of a suitable person in another state. On obtaining the written consent of a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar act which includes provisions corresponding to sections 27-20-41 and 27-20-42 the court of this state may order that the child be placed under the supervision of a probation officer or other appropriate official designated by the accepting court. One certified copy of the order shall be sent to the accepting court and another filed with the clerk of the board of county commissioners of the county of the requesting court of this state.
2. The reasonable cost of the supervision including the expenses of necessary travel shall be borne by the county of the requesting court of this state. Upon receiving a certified statement signed by the judge of the accepting court of the cost incurred by the supervision the court of this state shall certify if it so appears that the sum so stated was reasonably incurred and file it with the county auditor of the county for payment. The appropriate officials shall thereupon issue a warrant for the sum stated payable to the appropriate officials of the county of the accepting court.

27-20-42. Supervision Under Out-Of-State Order.)

1. Upon receiving a request of a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to sections 27-20-41 and 27-20-42 to provide supervision of a child under the jurisdiction of that court, a court of this state may issue its written acceptance to the requesting court and designate its juvenile supervisor, probation officer, or other appropriate officer who is to provide supervision, stating the probable cost per day therefor.

2. Upon the receipt and filing of a certified copy of the order of the requesting court placing the child under the supervision of the officer so designated the officer shall arrange for the reception of the child from the requesting court, provide supervision pursuant to the order and this chapter, and report thereon from time to time together with any recommendations he may have to the requesting court.
3. The court in this state from time to time shall certify to the requesting court the cost of supervision that has been incurred and request payment therefor from the appropriate officials of the county of the requesting court to the appropriate officials of the county of the accepting court.
4. The court of this state at any time may terminate supervision by notifying the requesting court. In that case, or if the supervision is terminated by the requesting court, the officer of the court supervising the child shall return the child to a representative of the requesting court authorized to receive him.

27-20-43. Powers of Out-Of-State Probation Officers.) If a child has been placed on probation or protective supervision by a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar act which includes provisions corresponding to this section, and the child is in this state with or without the permission of that court, the juvenile supervisor or probation officer of that court or other person designated by that court to supervise or take custody of the child has all the powers and privileges in this state with respect to the child as given by this chapter to like officers or persons of this state including the right of visitation, counseling, control, and direction, taking into custody, and returning to that state.

27-20-44. Termination of Parental Rights.)

1. The court by order may terminate the parental rights of a parent with respect to his child if:
 - a. The parent has abandoned the child;
 - b. The child is a deprived child and the court finds

that the conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or

- c. The written consent of the parent acknowledged before the court has been given.
2. If the court does not make an order of termination of parental rights it may grant an order under section 27-20-30 if the court finds from clear and convincing evidence that the child is a deprived child.

27-20-45. Proceeding for Termination of Parental Rights.)

1. The petition shall comply with section 27-20-21 and state clearly that an order for termination of parental rights is requested and that the effect thereof will be as stated in the first sentence of section 27-20-46.
2. If the paternity of a child born out of wedlock has been established prior to the filing of the petition the father shall be served with summons as provided by this chapter. He has the right to be heard unless he has relinquished all parental rights with reference to the child. The putative father of the child whose paternity has not been established, upon proof of his paternity of the child, may appear in the proceedings and be heard. He is not entitled to notice of hearing on the petition unless he has custody of the child.

27-20-46. Effect of Order Terminating Parental Rights.)

An order terminating parental rights of a parent terminates all his rights and obligations with respect to the child and of the child to or through him arising from the parental relationship. The parent is not thereafter entitled to notice of proceedings for the adoption of the child by another nor has he any right to object to the adoption or otherwise to participate in the proceedings.

27-20-47. Commitment to Agency.)

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental

rights, the court shall commit the child to the custody of the executive director of the public welfare board or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence thereof, in a foster home or take other suitable measures for the care and welfare of the child. The custodian has authority to consent to the adoption of the child, his marriage, his enlistment in the armed forces of the United States, and surgical and other medical treatment for the child.

2. If the child is not adopted within two years after the date of the order and a general guardian of the child has not been appointed by the county court, the child shall be returned to the court for entry of further orders for the care, custody, and control of the child.

27-20-48. Guardian Ad Litem.) The court at any stage of a proceeding under this chapter, on application of a party or on its own motion, shall appoint a guardian ad litem for a child who is a party to the proceeding if he has no parent, guardian, or custodian appearing on his behalf or their interests conflict with his or in any other case in which the interests of the child require a guardian. A party to the proceeding or his employee or representative shall not be appointed.

27-20-49. Costs and Expenses for Care of Child.)

1. The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:
 - a. The cost of medical and other examinations and treatment of a child ordered by the court;
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent;
 - c. Reasonable compensation for services and related expenses of counsel appointed by the court for a party;
 - d. Reasonable compensation for a guardian ad litem;

and

- e. The expense of service of summons, notices, subpoenas, travel expense of witnesses, transportation of the child, and other like expenses incurred in the proceedings under this chapter.
2. If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in subdivisions a, b, c, and d of subsection 1, the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county to the county treasurer of the county.

27-20-50. Protective Order.) On application of a party or on the court's own motion the court may make an order restraining or otherwise controlling the conduct of a person if:

1. An order of disposition of a delinquent, unruly, or deprived child has been or is about to be made in a proceeding under this chapter;
2. The court finds that the conduct (a) is or may be detrimental or harmful to the child and (b) will tend to defeat the execution of the order of disposition; and
3. Due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed.

27-20-51. Inspection of Court Files and Records.) All files and records of the court in a proceeding under this chapter shall not be disclosed to the public and are open to inspection only by:

1. The judge, officers, and professional staff of the court;

2. The parties to the proceeding and their counsel and representatives;
3. A public or private agency or institution providing supervision or having custody of the child under order of the court, which shall be given a copy of the findings and order of disposition when it receives custody of the child;
4. A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court; and
5. With leave of court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.

27-20-52. Law Enforcement Records.) Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20-34, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

1. A juvenile court having the child before it in any proceeding;
2. Counsel for a party to the proceeding;
3. The officers of public institutions or agencies to whom the child is committed;
4. Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and
5. A court in which he is convicted of a criminal offense for the purpose of a pre-sentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or

by a parole or pardon board in considering his parole or discharge or in exercising supervision over him.

27-20-53. Children's Fingerprints—Photographs.)

1. No child under fourteen years of age shall be fingerprinted in the investigation of a crime except as provided in this section. Fingerprints of a child fourteen or more years of age who is referred to the court may be taken and filed by law enforcement officers in investigating the commission of the following crimes: murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, unlawful entry, grand larceny, and automobile theft.
2. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository unless needed in the interest of national security.
3. Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.
4. Fingerprints of a child shall be removed from the file and destroyed if:
 - a. A petition alleging delinquency is not filed, or the proceedings are dismissed after either a petition is filed or the case is transferred to the juvenile court as provided in section 27-20-09, or the child is adjudicated not to be a delinquent child; or
 - b. The child reaches twenty-one years of age and there is no record that he committed a criminal offense after reaching sixteen years of age.
5. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent

fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.

6. Without the consent of the judge, a child shall not be photographed after he is taken into custody unless the case is transferred to another court for prosecution.

27-20-54. Sealing of Records.)

1. On application of a person who has been adjudicated delinquent or unruly or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding, including those specified in sections 27-20-52 and 27-20-53, if the court finds:
 - a. Two years have elapsed since the final discharge of the person;
 - b. Since the final discharge he has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or adjudicated a delinquent or unruly child and no proceeding is pending seeking conviction or adjudication; and
 - c. He has been rehabilitated.
2. Reasonable notice of the hearing shall be given to:
 - a. The state's attorney of the county;
 - b. The authority granting the discharge if the final discharge was from an institution or from parole; and
 - c. The law enforcement officers or department having custody of the files and records if the files and records specified in sections 27-20-52 and 27-20-53 are included in the application or motion.

3. Upon the entry of the order the proceeding shall be treated as if it never occurred. All index references shall be deleted and the person, the court, and law enforcement officers and departments shall properly reply that no record exists with respect to the person upon inquiry in any matter. Copies of the order shall be sent to each agency or official therein named. Inspection of the sealed files and records thereafter may be permitted by an order of the court upon petition by the person who is the subject of the records and only by those persons named in the order.

27-20-55. Contempt Powers.) The court may punish a person for contempt of court for disobeying an order of the court or for obstructing or interfering with the proceedings of the court or the enforcement of its orders subject to the laws relating to the procedures therefor and the limitations thereon.

27-20-56. Appeals.)

1. An aggrieved party, including the state or a subdivision of the state, may appeal from a final order, judgment, or decree of the juvenile court to the supreme court by filing written notice of appeal within thirty days after entry of the order, judgment, or decree, or within any further time the supreme court grants, after entry of the order, judgment, or decree. The appeal shall be heard by the supreme court upon the files, records, and minutes or transcript of the evidence of the juvenile court, giving appreciable weight to the findings of the juvenile court. The name of the child shall not appear on the record on appeal.
2. The appeal does not stay the order, judgment, or decree appealed from, but the supreme court may otherwise order on application and hearing consistent with this chapter if suitable provision is made for the care and custody of the child. If the order, judgment, or decree appealed from grants the custody of the child to, or withholds it from, one or more of the parties to the appeal it shall be heard at the earliest practicable time.

27-20-57. Rules of Court.) The supreme court of this state may adopt rules of procedure not in conflict with this chapter governing proceedings under it.

27-20-58. Uniformity of Interpretation.) This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

27-20-59. Short Title.) This chapter may be cited as the Uniform Juvenile Court Act.

Section 2. Amendment.) Section 12-46-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-14. Transportation of Persons Committed to State Industrial School.) The juvenile supervisor, or other officer or person designated by the court at the time commitment is ordered, shall conduct to the state industrial school all persons committed to it. Such person shall receive the amount of mileage allowed in section 11-15-25.

Section 3. Amendment.) Section 27-05.1-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-16. Juvenile Supervisors and Welfare Boards To Assist.) The juvenile supervisors and county welfare boards in every county in which a family court is established shall give such assistance to the family court as the court may request to carry out the purposes of this chapter and for that purpose may exercise all the powers pertaining to their offices granted or imposed pursuant to the laws of this state. The court may utilize the services, personnel, and facilities of the state and county welfare boards in effectuating the purposes of this chapter and may appoint personnel thereof as family court counselors.

Section 4. Repeal.) Chapters 27-16 and 50-14 of the North Dakota Century Code are hereby repealed.

Approved March 26, 1969.

CHAPTER 290

H. B. No. 45

(Aamoth, Ganser, Haugland, Hilleboe, Leibhan)
(Opedahl, Rundle, I. Solberg, Stoltenow, Tweten, Wells)

(From Legislative Research Committee Study)

STATE YOUTH AUTHORITY

AN ACT

To provide for a state youth authority for the placement, treatment and rehabilitation of delinquent and unruly children committed to its custody to provide for an advisory board and for contracting with other states.

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

Section 1. Creation of State Youth Authority—Director.) A state youth authority is hereby created and established with such powers and duties as are prescribed by this Act. The state youth authority shall be created within the public welfare board, and its chief administrative officer shall be the executive director of the public welfare board, or his designee.

Section 2. State Youth Authority—Powers and Duties.) The state youth authority shall be the administrative agency which shall take custody of delinquent and unruly children committed to its care by the juvenile courts. Upon committing a child to the custody of the state youth authority the committing judge, the juvenile supervisor, law enforcement officers and other public officials shall make available to the state youth authority all pertinent data in their possession with respect to the child. Upon taking custody of a child, the state youth authority shall process the child through such diagnostic testing and evaluation programs as may be necessary to determine his disposition in his best interest and in the best interest of the state. In doing so, the state youth authority may utilize the psychological, psychiatric, vocational, medical, and other diagnostic and testing services that are available, examine all the pertinent circumstances, and review the reasons for his commitment. Upon completion of the diagnostic testing and evaluation program, the state youth authority shall make disposition of the child as follows:

1. Place him in the custody of his parent, guardian, or in a foster home or suitable private institution licensed by

the state for the care of children; or

2. Place him in the custody of the state industrial school or in a vocational, training, or similar institution for children or young adults within this state; or
3. Place him in the custody of a vocational, training, or similar institution for children or young adults in another state in the event that adequate facilities for his treatment and rehabilitation are not available within this state and the committing judge concurs in the placement.

Subject to the authority of the committing court and the Uniform Juvenile Court Act, the state youth authority shall retain jurisdiction of the child until he reaches the age of twenty-one years, and may change placement of the child at any time it appears to be in his best interest and in the best interest of the state.

Section 3. Temporary Custody.) The state youth authority may place a child committed to its custody in the temporary custody of the state industrial school, a vocational, training, medical, psychiatric, psychological, or other institution suitable for children within this state for not more than sixty days, in order to provide for diagnostic testing and evaluation pending disposition under section 2.

Section 4. Creation of State Youth Authority Advisory Board—Members—Meetings—Powers and Duties.) There is hereby created and established, with the powers and duties prescribed by this Act, a state youth authority advisory board which shall consist of a juvenile court judge designated by the chief justice of the supreme court, the superintendent of the state industrial school, and the superintendent of the state hospital.

The advisory board shall meet at such times and places as they may decide by majority vote, upon due notice to all members by the director. It shall be the duty of the advisory board to evaluate and recommend proposals for placement, custody, and rehabilitation programs for children committed to the custody of the state youth authority. The advisory board may also review specific initial placements and changes in custody and make recommendations to the director concerning them.

Section 5. State Youth Authority to Report to Committing

Judge—Concurrence of Judge for Placement Out-Of-State.)

Within ten days after the completion of diagnostic testing and evaluation of a child, the director shall report the results thereof to the committing judge and the disposition made, if any, other than a temporary placement pursuant to section 3. The director shall review each placement every three months to determine whether a change in placement or program is necessary for the treatment or rehabilitation of the child, and shall report his findings and dispositions to the advisory board and the public welfare board.

Section 6. State Youth Authority to Contract with Facilities in Other States for Custody.)

- a. The state youth authority is hereby empowered to contract with the appropriate agencies or department of other states in order that they may receive custody of committed children for vocational, training, or other purposes contemplated by this Act. Before contracting with any agency or department of another state, the director shall assess the facilities that are offered by such department or agency, and, after contracting, forward to each district judge in the state a summary on the facilities that are furnished by such agency or department and such other information pertaining thereto as may reasonably be requested.
- b. Any contract entered into shall provide for:
 1. Its duration.
 2. Payments to be made to the other state for maintenance and extraordinary medical and dental expense of children received, and for participation in or receipt of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.
 3. Participation in programs of youth employment, the crediting of payments received by children on account thereof, and the crediting of proceeds from the disposal of any products resulting from such programs.
 4. Transportation of children to and from the other

state.

5. The right of the director, or his designee, to have at all reasonable times access to any institution in which a child in its custody may be committed, either temporarily or otherwise, for the purpose of inspecting the facilities thereof and visiting the child under commitment to the state youth authority.
6. The submission of reports by each institution in accordance with section 7 concerning the progress of treatment or rehabilitation of each child placed in its custody.
7. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of both states.

Children under the jurisdiction of the state youth authority who are in the custody of an institution of another state shall at all times be subject to the jurisdiction of this state, and at any time may be removed therefrom for change of placement as provided in section 2. All children placed in custody in another state shall be treated in a reasonable and humane manner and shall be treated equally with other children placed in custody in the same institution. Placement of a child in another state shall not deprive him of any legal rights he would have had if placed in an institution in this state.

Section 7. Report By Custodian to State Youth Authority.)
Any person, agency, department, or vocational, training, or other institution, either within or without this state, that has received custody of a child under this Act, other than temporary custody, shall:

1. Submit to the director, in such form as he may reasonably prescribe, a quarterly report of the progress of the child; and
2. Submit to the director, as required by him and in such form as he may reasonably prescribe, any interim report of the progress of the juvenile he deems necessary in the interest of the child.

Quarterly and interim reports shall be made available to the

court, the advisory board, and the public welfare board.

Section 8. Planning—Development—Assessment of Existing Facilities.) The state youth authority shall aid in the development of new or improved means of prevention, control, treatment and rehabilitation of children committed to its custody. It shall utilize research and other information available from all sources and, if necessary, initiate studies to aid in the general planning and development of appropriate programs for the placement, treatment and rehabilitation of children. The state youth authority shall assess existing programs and activities within the state, and keep informed of current developments relating to placement, treatment and rehabilitation of children.

Section 9. Cooperation with Other Agencies and Departments of the State—Right to Inspect Facilities of State Institutions—Right to Examine Children.) The state youth authority shall cooperate with and receive the cooperation of the board of pardons, the public welfare board, the board of administration, the state parole board, the state department of health, and such other agencies and departments of the state as may be necessary to carry out the objectives of this Act. The state youth authority may inspect at all reasonable times the facilities of those institutions within the state it is authorized to utilize under this Act, and may examine any child it has placed in the custody of such institution.

Section 10. Cooperation with Federal Agencies and Departments.) The state youth authority is empowered to cooperate with and receive any technical and financial assistance from the United States or any department, agency, or officer thereof as may be necessary to carry out the objectives of this Act in the manner authorized by law.

Approved March 14, 1969.

CHAPTER 291

H. B. No. 365
(Kuehn, Sanstead, Haugland)

INTERSTATE COMPACT ON JUVENILES

AN ACT

Establishing an interstate compact on juveniles and providing for the return of runaway juveniles and escapees, the out-of-state supervision of delinquent juveniles, and authorizing cooperative institutionalization of psychotic and defective delinquent juveniles.

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

Section 1. Legislative Findings and Policy.) It is hereby found and declared that juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others; and, that the cooperation of this state with other states is necessary to provide for the welfare and protection of juveniles and of the people of this state.

It shall therefore be the policy of this state, in adopting the Interstate Compact on Juveniles, to cooperate fully with other states in returning juveniles to such other states whenever their return is sought; and, in accepting the return of juveniles whenever a juvenile residing in this state is found or apprehended in another state and in taking all measures to initiate proceedings for the return of such juveniles.

Section 2. Execution of Compact—Text.) The governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of

the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

1. Cooperative supervision of delinquent juveniles on probation or parole;
2. The return, from one state to another, of delinquent juveniles who have escaped or absconded;
3. The return, from one state to another, of nondelinquent juveniles who have run away from home; and
4. Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.

In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III

Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made

such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV

Return of Runaways

1. That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing,

that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding. Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a

parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

2. That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.
3. That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V

Return of Escapees and Absconders

1. That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has

absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole,

or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

2. That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

ARTICLE VI

Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV, 1. or of Article V, 1., may consent to his immediate return to the state from which he absconded,

escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII

Cooperative Supervision of Probationers and Parolees

1. That the duly constituted judicial and administrative authorities of a state party to this compact, herein called "sending state", may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact, herein called "receiving state", while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept

supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

2. That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.
3. That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact without interference.
4. That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII

Responsibility for Costs

1. That the provisions of Articles IV, 2., V, 2. and VII, 4. of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.
2. That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV, 2., V, 2. or VII, 4. of this compact.

ARTICLE IX

Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X

Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment, and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

1. Provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consid-

- eration the character of facilities, services and subsistence furnished;
2. Provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;
 3. Provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;
 4. Provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;
 5. Provide for reasonable inspection of such institutions by the sending state;
 6. Provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and
 7. Make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI

Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII

Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of

other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII

Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

ARTICLE XIV

Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV

Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as

to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 3. Juvenile Compact Administrator.) Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state hereunder.

Section 4. Supplementary Agreements.) The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Section 5. Responsibilities of State Departments, Agencies and Officers.) The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

Section 6. Additional Procedures Not Precluded.) In addition to any procedure provided in Articles IV and VI of the compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts, or other legal custodian involved may agree upon and adopt any other plan of procedure legally authorized under the laws of this state and the other respective party states for the return of any such runaway juvenile.

Approved March 29, 1969.