

# JUDICIAL BRANCH OF GOVERNMENT

## CHAPTER 333

HOUSE BILL NO. 1279  
(Kretschmar)

### JUDICIAL CONFERENCE

AN ACT to amend and reenact sections 27-02-05.2, 27-15-01, 27-15-02, 27-15-03, 27-15-04, 27-15-05, and 27-15-10 of the North Dakota Century Code, relating to changing the name of the judicial council to the judicial conference and changing the membership, terms, organization, duties, and payment of expenses of members of the judicial conference; and to repeal sections 27-15-06, 27-15-08, and 27-15-09 of the North Dakota Century Code, relating to hearings and reports of the judicial council, and the meeting of judges concerning judicial council recommendations.

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

SECTION 1. AMENDMENT. Section 27-02-05.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-05.2. State juvenile services coordinator - Powers and duties - Selection and salary - Administrative support. The position of state juvenile services coordinator is hereby created and established within the office of the North Dakota supreme court administrator. The coordinator shall be selected by the supreme court and must have a background of experience in the juvenile justice system. The coordinator's salary shall be determined by the supreme court. For administrative, budgetary, and organizational purposes the coordinator position shall be considered a part of the supreme court administrator's office, and that office shall provide whatever administrative support is required by the coordinator. The coordinator shall work to establish uniform practices and procedures within the state's juvenile justice system; shall conduct research and planning on methods to improve the juvenile justice system; shall prepare and conduct training programs for juvenile justice personnel; shall work to improve communications and contacts among juvenile justice personnel; shall prepare, after consultation with juvenile justice personnel and juvenile judges, standards for various juvenile justice personnel such as referees, supervisors, and probation officers, which could be adopted by the judicial

~~council~~ conference and the supreme court; and shall perform such other duties and projects as may be directed by the judicial ~~council~~ conference or the supreme court to improve the state's juvenile justice system. The juvenile services coordinator shall make recommendations to the legislative assembly concerning any legislative action he deems necessary or desirable.

SECTION 2. AMENDMENT. Section 27-15-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-01. Judicial ~~council~~ conference established. There shall be maintained is established a judicial ~~council~~ conference consisting of:

1. All judges of the supreme court, district courts, and county courts of the state.
2. The attorney general.
3. The dean of the ~~school of law of the~~ university of North Dakota school of law.
4. Five members of the bar who are engaged in the practice of law who shall be chosen by the board of governors of the state bar association.
5. All ~~retired surrogate judges of~~ appointed by the supreme and district courts of the state court under section 27-17-03.
6. Two municipal judges selected by the North Dakota supreme court municipal judges' association.
7. ~~Two magistrates selected by~~ The clerk of the North Dakota supreme court.

SECTION 3. AMENDMENT. Section 27-15-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-02. Term of office - Vacancy, how filled. The judges of the supreme court, district courts, and county courts, the attorney general, and the dean of the university of North Dakota school of law in the university, and the surrogate judges shall hold office as members of the ~~council~~ judicial conference during the time they occupy their respective official positions. The retired judges of the supreme and district courts shall hold office as members of the ~~council~~ during retirement from their respective official positions. The term of office of the two municipal judges and magistrates who shall be appointed by the supreme court, and is two years, except that of the municipal judges first appointed after July 1, 1985, one must be appointed for a term of one year. The term of office of the five members of the bar who shall be appointed by the state bar

association of North Dakota, shall be two is five years, commencing on the first Monday of January of odd-numbered years except that of the members of the bar first appointed after July 1, 1985, one must be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. All terms of members serving on July 1, 1985, expire on December 31, 1985. Thereafter all terms commence on January 1. A vacancy shall be filled by the authority originally selecting the member.

SECTION 4. AMENDMENT. Section 27-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-03. Organization of ~~council~~ judicial conference - Rules of procedure. The chief justice, during his term as chief justice, shall be chairman of the judicial council. At the request of the judicial conference, the state court administrator shall serve as the executive secretary shall be chosen by the council either from within or without the council of the judicial conference. The council judicial conference shall make rules for its procedure, organization, election of officers, and the conduct of its business.

SECTION 5. AMENDMENT. Section 27-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-04. Meetings. The judicial council shall conference must meet at least twice in each year at such times and places as shall be fixed by the council conference.

SECTION 6. AMENDMENT. Section 27-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-05. Duties. The judicial council conference shall make a continuous study of the operation of the judicial system of the state to the end that procedure may be simplified, business expedited, justice better administered, and shall perform any other duties which may be prescribed by law:

1. Solicit, receive, and evaluate suggestions relating to the improvement of the administration of justice.
2. Consider and make recommendations to the supreme court for changes in rules, procedures, or any matter pertaining to the judicial system.
3. Coordinate continuing judicial education efforts for judges and support staff.
4. Establish methods for review of proposed legislation which may affect the operation of the judicial branch.

SECTION 7. AMENDMENT. Section 27-15-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-10. Compensation - Expenses. No member of the council shall conference is entitled to receive compensation for any services rendered by him in that capacity, but any necessary travel expenses, including mileage and subsistence, incurred by any judge of the district or county court, or justice of the supreme court, in the discharge of duties as a member are deemed expenses incurred in the performance of the duties of that office and shall be paid as such. The necessary travel expenses, including mileage and subsistence, incurred in the discharge of duties as a member by retired district court and supreme court judges, municipal court judges and magistrates shall member must be paid from funds appropriated for the purposes of the judicial council conference from the supreme court budget. The necessary travel expenses, including mileage and subsistence, incurred in the discharge of duties as a member by all other members of the council shall be audited and paid from the state bar fund in the same manner as other claims against that fund are paid. Members of the council shall be paid only for necessary travel expenses incurred within this state, unless otherwise authorized by the chief justice of the supreme court.

SECTION 8. REPEAL. Sections 27-15-06 and 27-15-09 of the North Dakota Century Code, and section 27-15-08 of the 1983 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1985

## CHAPTER 334

HOUSE BILL NO. 1586  
(Representative Wentz)  
(Senator Wenstrom)

## JUVENILE COURT REFEREES

AN ACT to create and enact a new section to chapter 27-05 of the North Dakota Century Code, relating to the appointment of judicial referees; to amend and reenact subsection 2 of section 14-02.1-03.1, subsection 3 of section 27-20-05, and section 27-20-06 of the North Dakota Century Code, relating to juvenile court referees; and to repeal section 27-20-07 of the North Dakota Century Code, relating to juvenile court referees.

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

SECTION 1. A new section to chapter 27-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Judicial referees.

1. There may be appointed in each judicial district, by the judges of district court having jurisdiction therein, one or more referees to serve at the pleasure of the appointing judges, on a full- or part-time basis. A referee is entitled to receive a salary within the limits of legislative appropriation.
2. A district court judge may assign a referee to preside in any case or proceeding provided for in title 14, chapter 27-20, and chapter 28-25 pursuant to rules of the supreme court.
3. The supreme court may promulgate rules for the qualification of referees, the extent and assignment of authority by the district court judges of the judicial districts, procedure, and the conduct of the office including regulations for training sessions and continuing education.



SECTION 2. AMENDMENT. Subsection 2 of section 14-02.1-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any pregnant woman under the age of eighteen or next friend shall be entitled to apply to the juvenile court for authorization to obtain an abortion without parental consent. Proceedings on such application shall be conducted in the juvenile court of the county of the minor's residence before a juvenile judge or referee, if authorized by the juvenile court judge in accordance with the provisions of chapter 27-20 27-05, except that the parental notification requirements of chapter 27-20 shall not be applicable to proceedings under this section. All applications in accordance with this section shall be heard by a juvenile judge or referee within forty-eight hours, excluding Saturdays and Sundays, of receipt of the application. The purpose of the hearing before the juvenile judge or referee shall be to determine:
  - a. Whether or not the minor is sufficiently mature and well informed with regard to the nature, effects, and possible consequences of both having an abortion and bearing her child to be able to choose intelligently among the alternatives.
  - b. If the minor is not sufficiently mature and well informed to choose intelligently among the alternatives without the advice and counsel of her parents or guardian, whether or not it would be in the best interests of the minor to notify her parents or guardian of the proceedings and call in the parents or guardian to advise and counsel the minor and aid the court in making its determination and to assist the minor in making her decision.
  - c. If the minor is not sufficiently mature and well informed to choose intelligently among the alternatives and it is found not to be in the best interests of the minor to notify and call in her parents or guardian for advice and counsel, whether an abortion or some other alternative would be in the best interests of the minor.

SECTION 3. AMENDMENT. Subsection 3 of section 27-20-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. ~~In addition to referees authorized by section 27-20-07, a~~ A judge of the juvenile court, in his discretion, 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, within the limits of legislative appropriations, together with reasonable travel expenses, in the manner and subject to the limitations applicable to juvenile supervisors. Detention center facilities and personnel shall be funded by the county.

\* SECTION 4. AMENDMENT. Section 27-20-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.
  - f. Administer oaths.
  - g. Take acknowledgments of instruments for the purpose of this chapter.

\* NOTE: Section 27-20-06 was also amended by section 2 of House Bill No. 1341, chapter 343.

- h. Make such temporary order not to exceed thirty days for the custody and control of a deprived child as he may deem appropriate.
  - i. Perform all other functions designated by this chapter or under section 1 of this Act or by order of the court pursuant thereto, including, if qualified, those of a referee. Juvenile supervisors who are were serving as juvenile commissioners on the effective date of this chapter July 1, 1969, may perform the functions of a referee under this chapter without being members of the bar.
  - j. Perform such functions relating to domestic relations matters as directed by his appointing district judge, acting in accordance with section 27-05-29.
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.

SECTION 5. REPEAL. Section 27-20-07 of the 1983 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 27, 1985



## CHAPTER 335

SENATE BILL NO. 2285  
(Olson)

## COURT RECORD DESTRUCTION

AN ACT to amend and reenact sections 11-17-10, 27-07.1-08, and 27-08.1-07 of the North Dakota Century Code, relating to retention and disposition schedules for district court and county court records.

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

SECTION 1. AMENDMENT. Section 11-17-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-10. Certain files not to be destroyed. None Unless otherwise authorized by rules of the supreme court, none of the files may be destroyed in any probate proceeding, any action for divorce, establishing parentage, adoption, change of name, or which otherwise affects the status of any person, or any action that determines or affects title or interest in real property, including quiet title actions, lien foreclosures, partition actions, and executions of judgments.

SECTION 2. AMENDMENT. Section 27-07.1-08 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-08. Custody of records of county courts. The judge of a county court shall have the care and custody of all the records of the court which relate to actions or proceedings within its civil and criminal jurisdiction. The Unless otherwise directed by rules of the supreme court, the judge may destroy the following records:

1. All papers contained in marriage files, except the original marriage license, if the license is at least five years old.
2. All mental health or insanity files more than twenty years old as determined by the date of the last paper filed. However, no patient's file shall be destroyed unless he

has been dead six years. The judge's investigation shall determine if the patient is alive or his date of death. The clerk of court shall record the destruction and destruction date in the file's index.

3. All receipts, canceled checks, or vouchers filed in support of any report and account rendered by any personal representative, executor, administrator, conservator, or guardian if the filing date of the report and account is at least six years old. When these are destroyed, the clerk of court shall make a record of the destruction and the destruction date in the margin or elsewhere on the report and account affected.

\* SECTION 3. AMENDMENT. Section 27-08.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-07. Records and destruction of records. Records Unless otherwise authorized by rules of the supreme court, records of the small claims court shall consist of all documents filed in each action and an index for plaintiffs and defendants. No other books, records, or papers need be kept. After Unless otherwise directed by rules of the supreme court, after the judgment is satisfied, or becomes ten years old, the court may destroy all papers filed in the case, except the judgment. At the time of destroying such papers, the clerk of court shall make a record upon the margin or elsewhere on the judgment identifying the papers destroyed and the date thereof.

Approved March 22, 1985

\* NOTE: Section 27-08.1-07 was also amended by section 9 of Senate Bill No. 2275, chapter 337.

## CHAPTER 336

SENATE BILL NO. 2116  
(Committee on Judiciary)  
(At the request of the Supreme Court)

## COURT FEES

AN ACT to create and enact a new subsection to section 14-15-09 of the North Dakota Century Code, relating to the fee for filing an adoption petition; and to amend and reenact sections 11-17-04, 11-26-04, 26.1-02-19, 27-07.1-11, 27-07.1-33, 27-08.1-03, 28-20-20, 28-20.1-05, 30.1-28-03, 32-37-05, 35-18-04, 35-21-05, 35-24-12, 43-01-19, 43-20-04, 44-06-03, and 57-22-32 of the North Dakota Century Code, relating to fees to be charged by the clerks of the district and county courts.

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

SECTION 1. AMENDMENT. Section 11-17-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-04. Fees to be charged by the clerk of the district court and county court. The clerk of the district court and county court shall charge and collect the following fees:

- 1- For the filing of an action, including an action transferred from another county, and for all things in connection therewith which are not hereinafter provided for, fifteen dollars.
- 2- For issuing a regular or special execution in an action, two dollars.
- 3- For filing a regular or special execution on return, one dollar.
- 4- Repealed by S-L 1981, ch- 361, § 6-
- 5- For filing and indexing any paper authorized to be filed in his office but not connected with a civil action or proceeding, one dollar.

- 6- For making a certified abstract or exemplified copy of a judgment or a certified or exemplified copy of judgment, order, or other paper filed or recorded in his office, for the first four pages, one dollar, and for each additional page, fifty cents-
- 7- For approving the bond of a notary public, one dollar-
- 8- For entering and indexing the commission of a notary public, one dollar-
- 9- For taking an acknowledgment or administering an oath, one dollar-
- 10- For recording and indexing any paper not filed in an action or proceeding, for the first four pages, one dollar, and for each additional page, fifty cents-
- 11- For a certificate of official capacity of a notary public or other officer, one dollar-
- 12- For certifying an abstract of real property as to judgments and liens, for each person named in the abstract as to whom search is made, one dollar-
- 13- For issuing a commission to take depositions, two dollars-
- 14- For certifying the record on appeal to the supreme court or to the district court of any other county and transmitting the same, ten dollars-
- 15- For all services on remittitur from supreme court, five dollars-
- 16- For taking depositions, for each page, one dollar-
- 17- For making a certified transcript of any judgment, two dollars-
- 18- For filing and docketing a transcript of a judgment from a county court or from any other county, two dollars-
- 19- For filing and entering an affidavit and other papers for the renewal of a judgment, two dollars-
- 20- Repealed by S.L. 1983, ch. 498, § 8-
- 21- For all services in adoption proceedings, five dollars-
- 22- For all services in proceedings for deposit in court, five dollars-
- 23- For filing and indexing the notice of intent to file a mechanic's lien pursuant to section 35-27-12, two dollars-

- 24- For issuing an identification card, three dollars-
- 25- For filing a hospital lien, two dollars-
- 26- For filing a satisfaction of judgment, one dollar-
- 27- For preparing a subpoena, one dollar-
1. For filing a case for decision in district court or county court which is not a small claims action, twenty dollars.
  2. For filing a small claims action in county court, ten dollars.
  3. For filing any matter authorized to be filed in the office of the clerk of court other than a case for decision in subsections 1 and 2, five dollars.
  4. For preparing, certifying, issuing, or transmitting any document, five dollars; or such lesser fee as may be set by a schedule to be promulgated by the state court administrator.

The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the county, or agencies thereof, in which the office of the clerk of court is located.

SECTION 2. AMENDMENT. Section 11-26-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-26-04. Meetings of board, when held - Fees. Whenever a debtor or creditor calls for assistance upon the debt adjustment board of the county within which the debtor resides and pays to the clerk of the district court a filing fee of five dollars as prescribed in subsection 3 of section 11-17-04, such clerk shall call a meeting of the debtor and his creditors with the board at the earliest possible date. The clerk shall notify the members of the board and the debtor and creditors of the time and place of such meeting. If a debtor requesting a meeting makes and files an affidavit stating that he is financially unable to pay the fee provided for in this section, the payment thereof shall be waived.

SECTION 3. A new subsection to section 14-15-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any person filing a petition shall pay to the clerk of court a filing fee as prescribed in subsection 1 of section 11-17-04.

SECTION 4. AMENDMENT. Section 26.1-02-19 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:



26.1-02-19. Fees. Any person filing a foreign decree shall pay a ten dollar filing fee as prescribed in subsection 3 of section 11-17-04 to the clerk of court. Fees for docketing, transcriptions, or other enforcement proceedings are as provided for decrees of the district court.

SECTION 5. AMENDMENT. Section 27-07.1-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-11. Fees to be charged by the clerk of county court. The clerk of a county court shall charge and collect the same fees as are prescribed in section 11-17-04, except that the clerk shall charge and collect the following fees:

- 1- For filing a petition for letters testamentary, of administration, of guardianship, or proceedings in heirship, twenty dollars. No filing fee under this or any other section may be required when a petition for guardianship of an incapacitated person is filed by a member of the individual habilitation plan team for the incapacitated person or any state employee in the performance of official duties.
- 2- For applications in joint tenancy to determine estate tax, ten dollars.
- 3- For filing of civil action in the county court, ten dollars, and from time to time thereafter the clerk may require additional deposits to be made to cover the fees as they accumulate.
- 4- For default judgments in civil actions, including all fees prior to execution, five dollars.
- 5- For a certified abstract or transcript of any judgment in any civil action, one dollar.

Upon the entry of judgment in any civil action, the clerk shall refund to the proper party the amount of all moneys deposited with him in excess of the legal fees accrued in the action.

SECTION 6. AMENDMENT. Section 27-07.1-33 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-33. Procedure permitting pleading of cross-claims or counterclaims in excess of jurisdiction of county courts. In all civil actions instituted in a county court 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 ten 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 the pleading in excess of jurisdiction is 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 fifteen dollars which shall be paid to the clerk of the district court in event the motion is granted. clerk of the district court may not charge or collect an additional fee from the moving party for filing the case in district court. In the absence of a 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 section, the clerk of the county court shall 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, 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.

\* SECTION 7. AMENDMENT. Section 27-08.1-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor. No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of actions shall be informal. No court reporter shall be required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed one thousand five hundred dollars, which shall be delivered to the plaintiff in person or mailed to him by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule shall not apply to counterclaims in excess of one thousand five hundred dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the debtor, at the hearing, as would be made under the provisions of chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury shall not be allowed in small claims court. A fee of five dollars as prescribed in subsection 2 of section 11-17-04 shall be

\* NOTE: Section 27-08.1-03 was also amended by section 2 of House Bill No. 1588, chapter 340.

charged for filing the claim affidavit, ~~or counterclaim affidavit,~~  
plus one dollar for each defendant served.

\* SECTION 8. AMENDMENT. Section 28-20-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-20. Assignment of judgment to be entered in judgment book. Every clerk of the district court, upon the presentation to him of an assignment of any judgment rendered or docketed in such court, signed by the party in whose favor the judgment is rendered, or by his executor or administrator, and acknowledged in the manner prescribed by law for the acknowledgment of deeds, must enter the same immediately in the judgment book and must note the fact of such assignment, the date thereof, and the name of the assignee, in the margin of the entry of such judgment in such judgment book and also upon the docket of such judgment. No filing fee may be charged or collected by the clerk of district court for entering an assignment of a judgment. The clerk of the district court of any other county where such judgment is docketed must note the fact of such assignment, the date thereof, and the name of the assignee, upon the presentation to and filing with him of a certified copy of the original judgment docket with the facts of such assignment noted thereon.

SECTION 9. AMENDMENT. Section 28-20.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20.1-05. Fees. Any person filing a foreign judgment shall pay to the clerk of court a filing fee ~~of seven dollars and fifty cents~~ as prescribed in subsection 3 of section 11-17-04. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the district court of any county of this state.

SECTION 10. AMENDMENT. Section 30.1-28-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30.1-28-03. (5-303) Procedure for court appointment of a guardian of an incapacitated person.

1. The incapacitated person or any person interested in his welfare may petition for a finding of incapacity and appointment of a guardian, limited or general. No filing fee under this or any other section may be required when a petition for guardianship of an incapacitated person is filed by a member of the individual habilitation plan team for the incapacitated person or any state employee in the performance of official duties.
2. Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person has counsel of his own

\* NOTE: Section 28-20-20 was also amended by section 13 of Senate Bill No. 2275, chapter 337.

- choice, it shall appoint an appropriate official or attorney to represent him in the proceeding, who shall have the powers and duties of a guardian ad litem. The person alleged to be incapacitated shall be examined by a physician appointed by the court who shall submit his report in writing to the court and shall also be interviewed by a visitor sent by the court. The visitor also shall interview the person seeking appointment as guardian, and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that he will be detained or reside if the requested appointment is made. The visitor shall submit his report in writing to the court.
3. Where possible without undue delay and expense beyond the ability to pay of the allegedly incapacitated person or any other person paying costs, the court, in formulating the judgment, may utilize the service of any public or charitable agency or nonprofit corporation that offers or is willing to evaluate the condition of the allegedly incapacitated person and make recommendations to the court regarding the most appropriate form of state intervention in his affairs. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see or hear all evidence bearing upon his condition. He is entitled to be present by counsel, to present evidence, and to cross-examine witnesses, including the court-appointed physician and the visitor. The issue may be determined at a closed hearing if the person alleged to be incapacitated or his counsel so requests.
  4. The costs necessitated by hearings held pursuant to this chapter must be paid, in order of priority, by:
    - a. The incapacitated person, if in the discretion of the court, sufficient assets are available.
    - b. The spouse or parents of the incapacitated person if the court finds costs would not cause undue hardship.
    - c. The state through the department of human services.

SECTION 11. AMENDMENT. Section 32-37-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-37-05. Fees paid by petitioner - Filing copy of judgment. The petitioner, upon the filing of the petition, must pay to the clerk of the district court the sum of five dollars as a filing fee as prescribed in subsection 1 of section 11-17-04. The cost of the publication of the notice required by this chapter shall be paid by the petitioner. In the event that said judgment shall establish the date and place of birth of the petitioner, the clerk of the court shall certify a copy of such judgment and file the same with the



division of vital statistics, state department of health, Bismarck, North Dakota.

\* SECTION 12. AMENDMENT. Section 35-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-18-04. Clerk of court - Filing - Record - Fee. The clerk of the district court with whom the lien statement and proof of service are filed shall endorse thereon the date and hour of filing and shall make an abstract thereof in a book kept for that purpose to be known as "the hospital lien book", which shall be indexed properly and shall contain the name of the hospital or institution filing the lien, the date and hour filed, the amount claimed, the name of the person or corporation against whom it is filed, the name of the person to whom such services are rendered and of any insurer of such injured person, and the number of the file where the original lien is kept. The clerk shall collect a fee of fifty cents as prescribed in subsection 3 of section 11-17-04 for filing and indexing each lien.

\*\* SECTION 13. AMENDMENT. Section 35-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-21-05. Fee - Recordation - Certified copies as evidence. If the officer before whom such proceedings are had is the clerk of the district court, the clerk shall be entitled to charge a fee of not more than one dollar as prescribed in subsection 3 of section 11-17-04 to be paid in advance by the applicant. If the officer is the clerk of the district court, he shall record the notice, affidavit, and undertaking in the order book, and if the officer is the register of deeds, he shall record the same in his book of miscellaneous records. The register of deeds shall be entitled to charge a fee as provided by section 11-18-05. Certified copies of the documents shall be prima facie evidence, in the courts of this state, of the matters therein contained.

\*\*\* SECTION 14. AMENDMENT. Section 35-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-24-12. Recordation of statement of lien. Immediately upon receipt of the statement of lien mentioned in section 35-24-11, the clerk of the district court shall give such statement a file number and shall file the same and in addition shall enter a record of the same in a book kept by him for that purpose, to be called "Oil and Gas Lien Record", which shall be ruled off into separate columns with headings as follows: "File Number", "When Filed", "Name of Owner", "Name of Claimant", "Amount Claimed", "Description of", and "Remarks", and the clerk of the district court shall make the proper entries under each column. The fee to be charged by the clerk of the district court for the filing of such lien statement shall be one dollar as prescribed by subsection 3 of section 11-17-04.

SECTION 15. AMENDMENT. Section 43-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* NOTE: Section 35-18-04 was also amended by section 21 of Senate Bill No. 2275, chapter 337.
- \*\* NOTE: Section 35-21-05 was also amended by section 22 of Senate Bill No. 2275, chapter 337.
- \*\*\* NOTE: Section 35-24-12 was also amended by section 23 of Senate Bill No. 2275, chapter 337, and amended by section 2 of Senate Bill No. 2433, chapter 385.



43-01-19. County officers may certify abstracts. The provisions of this chapter shall not prevent the register of deeds, county treasurer, or clerk of court from certifying to abstracts of title to lands from the records of their respective offices. Each such officer, however, shall be liable on his official bond for the faithful performance of all acts performed by him as such abstracter. If the officer certifying the abstract is the clerk of court, the clerk shall charge and collect a fee as prescribed in subsection 4 of section 11-17-04.

SECTION 16. AMENDMENT. Section 43-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-04. License recorded - Fee. Every holder of a license as a dental hygienist in this state, within thirty days after its issuance, shall file the same for record in the office of the clerk of the district court in the county where the holder works. If said holder of the license changes the place of his employment to another county he shall file the license in the office of the clerk of the district court of such county before practicing therein. The clerk's fee for recording such license shall be fifty cents as prescribed in subsection 3 of section 11-17-04.

\* SECTION 17. AMENDMENT. Section 44-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-03. Oath and bond of notary public - Approval of bond. Each notary public, before entering upon the duties of his office, shall take the oath prescribed for civil officers and give to the state a bond in the penal sum of five hundred dollars conditioned for the faithful discharge of the duties of his office. Such bond may be furnished by a surety or bonding company authorized to do business in this state or by one or more sureties, and shall be subject to approval as follows:

1. If it is a surety bond, it shall be subject to approval by the secretary of state, and such approval shall be without charge.
2. If it is a personal bond, it shall be subject to approval by the clerk of the district court of the county of which the notary public is a resident, or of the county to which such county is attached for judicial purposes. The clerk of district court shall charge and collect a fee as prescribed in subsection 4 of section 11-17-04 for such approval.

SECTION 18. AMENDMENT. Section 57-22-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-32. Collection from tax debtor who moves to another county - Duty of county auditor. Upon the removal of a delinquent tax debtor from the county, collection shall be made from ~~him~~ the debtor in the manner following:

- \* NOTE: Section 44-06-03 was also amended by section 2 of House Bill No. 1381, chapter 499.

1. In case of the removal of any delinquent tax debtor from the county in which his the debtor's personal property was taxed to any other county in this state, it shall be the duty of the assessor immediately to make a proper effort to ascertain the place of his the debtor's destination and to report the same to the county auditor. Thereupon, the county auditor shall make out and forward to the clerk of the district court of the county to which the tax debtor has removed a statement of the amount of such delinquent taxes, including penalties and costs that may have attached, specifying the value of property on which said taxes were levied.
  
2. On receipt of any such statement, the clerk of the district court receiving the same shall issue his a warrant to the sheriff of his the county, and such sheriff shall proceed immediately to collect the same in the manner in which he the sheriff collects delinquent taxes in his own the county. He The sheriff shall collect from the tax debtor an additional twenty-five cents sum as prescribed in subsection 4 of section 11-17-04 for each warrant. Such sum shall be paid to such clerk as his the fee for issuing said warrant, and all taxes thus collected shall be remitted by him the sheriff to the treasurer of the county to which the taxes belong, together with the original statement of account, and if any taxes remain unpaid a statement shall be made of the reason therefor, and proper entries shall be made on the tax lists of the county where the tax was levied.

Approved April 4, 1985

## CHAPTER 337

SENATE BILL NO. 2275  
(Olson)

## COURT CLERKS

AN ACT to amend and reenact sections 11-17-01, 11-17-05, 11-17-09, 15-29-10, subsection 2 of section 27-02-05.1, sections 27-07.1-12, 27-07.1-24, 27-08.1-06, 27-08.1-07, 28-20-12, 28-20-13, 28-20-16, 28-20-20, subsection 4 of section 28-20-21, sections 28-20-22, 28-20-25, 29-01-26, 32-28-02, 32-28-03, 35-15-05, 35-18-04, 35-21-05, 35-24-12, and 57-22-31 of the North Dakota Century Code, relating to the duties and recordkeeping functions of the clerks of district courts and clerks of county courts; and to repeal sections 28-20-10 and 28-20-19 of the North Dakota Century Code, relating to recordkeeping requirements of the clerks of district courts and the clerks of county courts.

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

SECTION 1. AMENDMENT. Section 11-17-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-01. Duties of the clerk of court. The Unless otherwise directed by rule of the supreme court, the clerk of the district court shall perform the following duties:

1. Take charge of all ~~books,~~ papers, and records, which are filed or deposited in ~~his~~ the office of the clerk of court, and safely keep and dispose of the same according to ~~law~~ supreme court rule.
2. Act as clerk of the district court, and attend ~~each session thereof,~~ attend the judge of the district court in chambers during sessions of the district court when requested to do so, ~~and act as clerk of county court as required by law~~ the judge.
3. Issue all process and notices required to be issued out of the district court.

4. Enter all judgments of the district court and record the same in the judgment book.
- 5- Keep in his the office a judgment docket in which he the clerk shall enter a record of all money judgments alphabetically the name of each judgment debtor, the amount of the judgment, and the precise time of its entry.
- 6- 5. Satisfy all liens and judgments docketed or on file in his the office immediately after a satisfaction thereof of the lien or judgment is filed therein.
- 7- 6. Keep in his the office a register of all actions, which must state the names of the attorneys, the amounts of all fees charged therein, in which the clerk shall enter the title of the each action with brief notes under it from time to time of all papers filed and proceedings had therein in the action together with the date of the filing or proceeding, and such other matters as are required by law supreme court rule.
- 8- 7. Keep for the district court in separate volumes an a plaintiff's and defendant's index of all suits labeled "General Index - Plaintiffs", each page of which shall be divided into seven columns, under their respective heads alphabetically arranged as follows: Number of Action; Plaintiffs; Defendants; Date of Judgment; Number of Judgment; Page of Entry of Judgment in Judgment Book; and Page of Minute Book of District Court.
- 9- Keep for the district court an index labeled "General Index - Defendants", each page of which shall be divided into seven columns as provided in subsection 8-
- 10- Keep a minute book which shall contain the daily proceedings of the district court and which shall be signed by the clerk. The minute book shall be indexed in the names of both plaintiffs and defendants.
- 11- Keep a properly indexed book labeled "Register of Criminal Actions" in which shall be entered the title and number of each criminal action with a memorandum of each paper filed or order or proceeding had therein together with the date thereof and the name of each witness called in each action; the number of days he is in attendance; and his legal fees.
- 12- Keep a book labeled "Book of Jurors' Certificates", in which shall be contained the blank certificates and stubs to be filled as provided by the laws of this state.
- 13- Keep a book labeled "Witness Book", in which shall be contained the blank certificates and stubs to be filled as provided in this code.

- ~~14-~~ 8. Keep a record of the attendance name of all jurors each juror in the district court, and of all witnesses in criminal actions the number of days in attendance, and compute the mileage of each.
9. Keep a record of the name of each witness called in each criminal action in the district court, the number of days in attendance, and the witness' legal fees.
- ~~15-~~ 10. Keep such other records and perform such other duties as are prescribed by law the supreme court directs by rule.

SECTION 2. AMENDMENT. Section 11-17-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-05. Clerk to keep fee book record of fees - Monthly report to county auditor. The clerk of the district court shall keep as a public record in his office a book to be provided by the county in which he shall enter of all money received by him as fees for services rendered as such clerk. Within three days after the close of each calendar month and also at the close of his the clerk's term of office, such the clerk shall file with the county auditor a statement under oath showing the amount of fees which he has received as such officer clerk since the date of his the clerk's last report, and within three days thereafter he the clerk shall deposit with the county treasurer the total sum of such fees, except such fees as he which the clerk is authorized expressly to retain.

SECTION 3. AMENDMENT. Section 11-17-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-09. Record made of files destroyed. At the time the files, shorthand notes, recorded testimony, or exhibits referred to in sections 11-17-08 and 11-17-10 are destroyed or transferred to the state archivist, the clerk of court shall make a record upon the entry in the register of actions or the docket of the judgment, indicating the removal and final disposition of the files, shorthand notes, recorded testimony, or exhibits and the date thereof of the action.

SECTION 4. AMENDMENT. Section 15-29-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-10. District records open to examination - Records as evidence. The records, books, vouchers, and papers of the district shall be are open to examination by any taxpayer of the district. Such These records, or a transcript thereof certified by the clerk, shall must be received in all courts as prima facie evidence of the facts therein set forth.

SECTION 5. AMENDMENT. Subsection 2 of section 27-02-05.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:



2. Administrative practice and procedure in all courts, including ~~the~~:
  - a. The required filing by all courts of all reports deemed necessary by the supreme court; and
  - b. The establishment of uniform standards and procedures for the effective management of court records.

All judges, clerks of court, and other officers or employees of the courts and of offices related to and serving the courts shall comply with all administrative practice and procedure rules promulgated by the supreme court.

SECTION 6. AMENDMENT. Section 27-07.1-12 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-12. Clerk to keep ~~fee book~~ record of fees - Monthly report to county auditor. The clerk of the county court shall keep as a public record ~~in his office a book, to be provided by the county, in which he shall enter of all money received by him as fees for services rendered as clerk.~~ Within three days after the close of each calendar month and also at the close of ~~his~~ the clerk's term of office, the clerk shall file a statement under oath with the county auditor showing the amount of fees ~~which he has received since the date of his the clerk's last report,~~ and within three days thereafter, ~~he the clerk shall deposit with the county treasurer the total sum of such fees, except such fees as he that the clerk is expressly authorized to retain.~~

SECTION 7. AMENDMENT. Section 27-07.1-24 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-24. Docketing judgment - Transcript to other counties - Lien on real property. On filing a judgment roll upon a judgment ~~which, in whole or in part, that~~ directs the payment of money, the clerk of the county court in which ~~such the judgment was rendered shall docket the same judgment in a book separate record to be known as the "judgment docket".~~ Such The judgment may be docketed in any other county upon filing with the clerk of the county court of such the county a transcript of the original judgment docket. The judgment shall be is a lien on all the real property, except the homestead, of every person against whom any such the judgment is rendered, which he may have the person has in any county in which such the judgment is docketed at the time of docketing or which he the person thereafter shall acquire acquires in such the county, for ten years from the time of docketing the same judgment in the county in which it was rendered. All provisions of law applicable to the district courts pertaining to the filing, docketing, or renewal of a judgment shall apply to county courts.

SECTION 8. AMENDMENT. Section 27-08.1-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-06. Judgment unsatisfied - Docketing - Execution. If the defendant fails to pay the judgment rendered by the court within twenty days after notice of entry has been filed, the judge of the court may issue an execution to the county sheriff as if issued by the clerk of the district county court under the provisions of chapter 28-21, and the execution ~~shall invoke~~ invokes all the powers of the sheriff in the same manner as an execution of the judgment under chapter 28-21, or upon application of the prevailing party, the judge of the court shall certify an abstract of the judgment to the district county court, along with an affidavit of identity signed by the judgment creditor. The abstract may be filed with the clerk of the district county court of the county in which the judgment was rendered without payment of a filing fee, and the clerk, thereupon, must shall enter the judgment in the judgment book and upon the judgment docket. From the time of the docketing, it becomes a judgment of the district county court for the purpose of execution and a lien upon real property owned by the debtor in the same manner as an original judgment of the district county court. A certified transcript of the docket of the judgment may be filed and the judgment docketed accordingly in any other county with the same effect in every respect as if the judgment had been rendered in the district county court where the judgment is filed.

\* SECTION 9. AMENDMENT. Section 27-08.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-07. Records and destruction of records. Records Unless otherwise authorized by rules of the supreme court, records of the small claims court shall consist of all documents filed in each action and an index for plaintiffs and defendants. No other books, records, or papers need be kept. After Unless otherwise directed by rules of the supreme court, after the judgment is satisfied, or becomes ten years old, the court may destroy all papers filed in the case, except the judgment. At the time of destroying such the papers, the clerk of court shall make a record upon the margin or elsewhere on the judgment identifying the papers destroyed and the date thereof dates the papers were filed.

SECTION 10. AMENDMENT. Section 28-20-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-12. Judgment roll - Contents. Unless the party or his the party's attorney shall furnish furnishes a judgment roll, the clerk immediately after entering the judgment shall attach together and file the following papers, which shall constitute the judgment roll unless otherwise directed by rule of the supreme court:

1. In case cases when the complaint is not answered by any defendant, the summons and complaint or copies thereof,

\* NOTE: Section 27-08.1-07 was also amended by section 3 of Senate Bill No. 2285, chapter 335.

the affidavit for service of summons by publication, if any, proof of service and proof that no answer has been received, the report, if any, and a copy of the judgment;

2. In all other cases, the summons, pleadings, or copies thereof, the verdict or decision, the report, if any, the offer of the defendant, a copy of the judgment, the statement of the case, if any, and all orders and papers in any way involving the merits and necessarily affecting the judgment; and
3. All instructions of the court to the jury, when filed with the clerk, the motion and notice of motion for a new trial, the specifications of errors of law and of insufficiency of the evidence, the order of the court granting or denying a new trial, together with the memorandum of ~~his~~ the judge's reasons, and the notice of appeal and undertaking thereon.

SECTION 11. AMENDMENT. Section 28-20-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-13. Docketing judgment - Transcript to other counties - Lien on real property. On filing a judgment roll upon a judgment ~~which, in whole or in part, that~~ directs the payment of money, the clerk of the district court in which ~~such the~~ judgment was rendered shall docket the ~~same judgment in a book separate record~~ to be known as the "judgment docket". ~~Such The~~ judgment may be docketed in any other county upon filing with the clerk of the district court of ~~such that~~ county a transcript of the original judgment docket. The judgment shall be ~~is~~ a lien on all the real property, except the homestead, of every person against whom ~~any such the~~ judgment is rendered, which ~~he the person~~ may have in any county in which ~~such the~~ judgment is docketed at the time of docketing or which ~~he the person~~ thereafter shall ~~acquire acquires~~ in ~~such the~~ county, for ten years from the time of docketing the ~~same judgment~~ in the county in which it was rendered. When a judgment shall be ~~is~~ docketed in a county to which unorganized territory is attached for judicial purposes, ~~it shall be the judgment is~~ a lien upon any real property of the judgment debtor situated in ~~such the~~ unorganized territory to the same extent as though the real property were situated in the organized county. If the unorganized territory thereafter is organized as a county, a transcript of the judgment docket shall ~~must~~ be filed in the office of the clerk of the district court of ~~such the~~ county within ninety days after the organization of the county, or it shall ~~cease ceases~~ to be a lien upon any real property ~~therein~~ in the county.

SECTION 12. AMENDMENT. Section 28-20-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-16. How judgment docketed. ~~The Unless otherwise directed by rules of the supreme court, the clerk shall docket the judgment by entering alphabetically in the judgment docket the names of the~~



judgment ~~debtor or~~ debtors, the names of the ~~party or~~ parties in whose favor the judgment was rendered, the sum recovered or directed to be paid in figures, the date of the judgment, the ~~year, day, hour, and exact time to the~~ minute when the judgment roll or transcript was filed, the ~~year, day, hour, and exact time to the~~ minute when the judgment was docketed in his the clerk's office ~~and the page in the judgment book where the same is entered~~, the name of the court in which the judgment was rendered, and the name of the ~~attorney or~~ attorneys for the party recovering the judgment. If there are two or more judgment debtors, ~~such the~~ entries must be repeated under the initial letter of ~~the~~ each surname ~~of each~~.

\* SECTION 13. AMENDMENT. Section 28-20-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-20. Assignment of judgment to be entered ~~in upon the~~ judgment ~~book docket~~. Every clerk of the district court, upon the presentation ~~to him~~ of an assignment of any judgment rendered or docketed in ~~such the~~ court, signed by the party in whose favor the judgment is rendered, or by ~~his the~~ party's executor or administrator, and acknowledged in the manner prescribed by law for the acknowledgment of deeds, ~~must enter the same immediately in the judgment book and must shall~~ note the fact of ~~such the~~ assignment, the date thereof, and the name of the assignee, ~~in the margin of the entry of such judgment in such judgment book and also upon the docket of such the judgment. No filing fee may be charged or collected by the clerk of district court for entering an assignment of a judgment.~~ The clerk of the district court of any other county where ~~such the~~ judgment is docketed ~~must shall~~ note the fact of ~~such the~~ assignment, the date thereof, and the name of the assignee, upon the presentation ~~to~~ and filing with ~~him that~~ clerk of a certified copy of the original judgment docket with the facts of ~~such the~~ assignment noted thereon.

SECTION 14. AMENDMENT. Subsection 4 of section 28-20-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The file number of the judgment book case in which entered and the page of the entry of the same county in which the judgment was originally entered;

SECTION 15. AMENDMENT. Section 28-20-22 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-22. Affidavit of renewal - Where filed - Entry. If the judgment was rendered in a district court of this state, or was entered upon a transcript or abstract from a county court, the affidavit for renewal ~~shall must~~ be filed with the clerk of the district court where ~~such the~~ judgment was first docketed. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal may be filed with the clerk of any district court where the same has been docketed. The clerk of the district court shall immediately

- \* NOTE: Section 28-20-20 was also amended by section 8 of Senate Bill No. 2116, chapter 336.

shall enter the affidavit for renewal at length in the judgment book in the same manner and with the same effect as the original judgment, and he shall enter in his the judgment docket, after a statement of the original judgment, the fact of renewal, the date of renewal, and the amount for which the judgment is renewed. A copy of the affidavit of renewal and the docket entries thereon, certified by the clerk of the district court wherein where the same judgment is filed, may be filed and docketed in any other county of the state in which a transcript of the original judgment was filed.

SECTION 16. AMENDMENT. Section 28-20-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-25. Discharge of record. Upon the return of an execution issued upon a judgment wholly that has been satisfied, or the presentation of a satisfaction duly executed, to the clerk of any district court, he the clerk shall immediately must note upon the judgment docket and in the margin of the judgment book where such judgment is entered, the date and manner of such the cancellation, and the manner thereof.

SECTION 17. AMENDMENT. Section 29-01-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-26. Duty of clerk or magistrate. The clerk, magistrate, or other person to whom property is delivered, as is provided in section 29-01-25, must enter in a suitable book shall record every amount of money and a description of every article of property taken from each person so arrested and must, attach a number to every amount of money and every article of property and make a corresponding entry thereof, but when the receipt and property, as provided in section 29-01-25, are delivered to a magistrate, it shall be sufficient. Sufficient compliance with the provisions of this section is met if the entries are made in his the docket of the magistrate after the receipt and property are delivered to a magistrate, as provided in section 29-01-25.

SECTION 18. AMENDMENT. Section 32-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-28-02. Change of name of person - Petition. Any person desiring to change his or her name may file a petition in the district court of the county in which such the person may be is a resident, setting forth:

1. That the petitioner has been a bona fide resident of such the county for at least six months prior to the filing of the petition.
2. The cause for which the change of the petitioner's name is sought.
3. The name asked for.



The judge of the district court, upon being duly satisfied by proof in open court of the truth of the allegations set forth in the petition and, that there exists proper and reasonable cause for changing the name of the petitioner, and that thirty days' previous notice of the intended application has been given in some newspaper printed in such the district, shall order a change of the name of such the petitioner and direct that such order be entered by the clerk in the journal of the court. The court, however, may waive publication of the notice hereinbefore required when the proposed change relates only to a first or given name as distinguished from a surname.

\* SECTION 19. AMENDMENT. Section 32-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-28-03. Change of name of city - Petition. Whenever it may be desirable to change the name of any city in any county of the this state, a petition for that purpose in like manner may be filed in the district court of the county in which such the city is situated, setting forth the reason why such for the change of name is desirable and the name asked to be substituted requested. The court may order such the change of name and direct the clerk to enter such order upon the journal of the court, on being satisfied by proof that:

1. That the prayer The request of the petitioners is just, proper, and reasonable.
2. That notice as in case of the change of names of persons Notice has been provided for as required in section 32-28-02 has been given.
3. That two-thirds Two-thirds of the legal voters qualified electors of such the city, as determined by the vote cast for the office of governor at the last gubernatorial election, have signed such petition expressing their desire that such change of name be granted.
4. That there There is no other city in the this state of with the requested name asked for.

SECTION 20. AMENDMENT. Section 35-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-15-05. Account filed with clerk - Recorded by clerk - Liens concurrent and paid pro rata. Any person entitled to a lien under this chapter shall make a verified account in writing of the items of labor and material furnished and, within sixty days from the time of completing the labor or furnishing the last item of materials, shall file the account in the office of the clerk of the district court of the county in which where the lode, lead, ledge, mine, deposit, bank, or tunnel for or upon which labor or material is furnished may be is situated. At the same time he The person shall file, with the account, a correct description of the property to be charged with

\* NOTE: Section 32-28-03 was also amended by section 61 of House Bill No. 1059, chapter 235.

the lien. The account and description shall be recorded in a separate ~~book record and filing system~~ to be provided for that purpose by the clerk of court. Thereupon ~~such the~~ account shall ~~will~~ operate as a lien on the property charged in the description from the time of the completion of the work or furnishing the last item of material, and for one year thereafter. When labor has been performed or materials have been furnished under a written contract, the contract or a copy thereof shall ~~must~~ be filed with the account and description. All lien claims for labor performed or materials furnished shall ~~must~~ be concurrent liens upon the property charged and shall ~~must~~ be paid pro rata out of the proceeds arising from the sale thereof of the property, if the same shall be sold, or upon settlement without sale.

\* SECTION 21. AMENDMENT. Section 35-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-18-04. Clerk of court - Filing - Record - Fee. The clerk of the district court with whom the lien statement and proof of service are filed shall endorse ~~thereon on those filings~~ the date and hour of filing and shall make an abstract thereof in a book kept for that purpose to be known as "the hospital lien book", which shall be indexed properly and shall contain the name of the hospital or institution filing the lien, the date and hour filed, the amount claimed, the name of the person or corporation against whom it is filed, the name of the person to whom such services are rendered and of any insurer of such injured person, and the number of the file where the original lien is kept ~~keep a record of all lien statements filed in the county, and of any orders, or responses relating to any orders, by the district court.~~ The clerk shall establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. The clerk shall collect a fee of fifty cents as prescribed in subsection 3 of section 11-17-04 for filing and indexing each lien.

\*\* SECTION 22. AMENDMENT. Section 35-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-21-05. Fee - Recordation - Certified copies as evidence. If the ~~presiding officer before whom such proceedings are had~~ is the clerk of the district court, the clerk shall be entitled to ~~may~~ charge a fee of not more than one dollar as prescribed in subsection 3 of section 11-17-04 to be paid in advance by the applicant. If the officer is the clerk of the district court, ~~he the clerk~~ shall record the notice, affidavit, and undertaking in the ~~order book, and if a recording system provided for that purpose.~~ If the officer is the register of deeds, ~~he the officer~~ shall record the same in his book of miscellaneous records. The register of deeds shall be entitled to ~~may~~ charge a fee as provided by section 11-18-05. Certified copies of the documents shall ~~be~~ are prima facie evidence, in the courts of this state, of the matters therein contained.

\* NOTE: Section 35-18-04 was also amended by section 12 of Senate Bill No. 2116, chapter 336.

\*\* NOTE: Section 35-21-05 was also amended by section 13 of Senate Bill No. 2116, chapter 336.

\* SECTION 23. AMENDMENT. Section 35-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-24-12. Recordation of statement of lien. Immediately upon receipt of the statement of lien mentioned provided for in section 35-24-11, the clerk of the district court shall give such statement a file number and shall file the same and in addition shall enter a record of the same in a book kept by him for that purpose, to be called "Oil and Gas Lien Record", which shall be ruled off into separate columns with headings as follows: "File Number", "When Filed", "Name of Owner", "Name of Claimant", "Amount Claimed", "Description of", and "Remarks", and the clerk of the district court shall make the proper entries under each column keep a record of all lien statements filed in the county, and of any orders or responses relating to orders by the district court. The clerk shall establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. The fee to be charged by the clerk of the district court for the filing of such a lien statement shall be one dollar is as prescribed by subsection 3 of section 11-17-04.

SECTION 24. AMENDMENT. Section 57-22-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-31. Payment of taxes after judgment. Upon payment to the county treasurer of any personal property taxes for which judgment has been obtained, the treasurer shall deliver a certificate of the fact of payment to the clerk of the court, who. The clerk shall satisfy file the certificate and enter the satisfaction of the judgment upon the margin of the record thereof in the judgment docket, stating the date of payment and the number of the receipt given therefor, and shall file such certificate.

SECTION 25. REPEAL. Sections 28-20-10 of the North Dakota Century Code and 28-20-19 of the 1983 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1985

\* NOTE: Section 35-24-12 was also amended by section 14 of Senate Bill No. 2116, chapter 336, and amended by section 2 of Senate Bill No. 2433, chapter 385.

## CHAPTER 338

SENATE BILL NO. 2118  
(Committee on Judiciary)  
(At the request of the Supreme Court)

## COUNTY COURT JURISDICTION

AN ACT to amend and reenact subsection 8 of section 27-07.1-17 of the North Dakota Century Code, relating to the jurisdiction of county courts.

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

\* SECTION 1. AMENDMENT. Subsection 8 of section 27-07.1-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. Any other cases, ~~except proceedings conducted pursuant to chapter 27-20,~~ as assigned by the presiding district judge of the judicial district in which the county is located; provided, however, that any party is entitled to have any matter assigned pursuant to this subsection heard by a district judge if a written request therefor is filed with the presiding district judge within three days after receiving notice of the assignment, and, provided further, that the trial of a criminal matter may not be assigned to a county judge who presided at the preliminary hearing except where a preliminary hearing has been waived.

Approved March 22, 1985

- \* NOTE: Section 27-07.1-17 was also amended by section 31 of House Bill No. 1070, chapter 272.



## CHAPTER 339

HOUSE BILL NO. 1268  
(Representatives Wald, Goetz)  
(Senator Waldera)

## COMMISSION ON JUDICIAL CONDUCT

AN ACT to amend and reenact sections 27-07.1-34, 27-23-01, 27-23-02, and 40-18-22 of the North Dakota Century Code, relating to changing the name of the commission on judicial qualifications to the commission on judicial conduct.

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

SECTION 1. AMENDMENT. Section 27-07.1-34 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07.1-34. Continuing education of judge of county court required. Each judge of a county court shall be required, within one year after his election, and at least once each calendar year thereafter, to attend and participate in an educational session designated for that purpose by the supreme court, unless the judge is excused from such attendance by the supreme court. If any such judge shall fail to attend an educational session within any calendar year, without being excused therefrom by the supreme court, the state court administrator shall report such fact to the commission on judicial ~~qualifications~~ conduct for such action as it deems appropriate.

SECTION 2. AMENDMENT. Section 27-23-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-23-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Commission" means the commission on judicial ~~qualifications~~ conduct.
2. "Judge" means a justice of the supreme court, a judge of the district court, a judge of a county court, a judge of a municipal court, and, in the case provided in section 29-01-14, a small claims court referee.



3. "Chairman" means the chairman of the commission and includes any acting chairman.
4. "Master" means one or more judges, active or retired, or attorneys appointed by the supreme court upon the request of the commission; or one or more members of the commission designated by the commission to hold hearings and make findings of fact on issues of fact arising in proceedings under this chapter.
5. "Counsel" means one or more attorneys appointed by the commission to gather and present evidence and act on its behalf in proceedings before a master or the commission or in the supreme court.
6. "Shall" is mandatory, but not jurisdictional, and "may" is permissive.

SECTION 3. AMENDMENT. Section 27-23-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-23-02. Creation and composition of commission, terms of office, appointment, and powers. A The commission on judicial ~~qualifications~~ conduct is hereby created to consist of one judge of the district court, one judge of the county court, one lawyer who is licensed to practice law in this state, and four citizens who are not judges, retired judges, or lawyers. Members representing the district and county courts shall be appointed by their respective state associations and the lawyer member shall be appointed by the executive committee of the state bar association of North Dakota. The citizen members shall be appointed by the governor. The term of each member shall be three years. Initially, two members shall serve for three years, two members shall serve for two years, and three members shall serve for one year; as determined by lot. No member shall serve more than two full three-year terms. Membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. Any appointment to fill a vacancy not made within forty-five days after the vacancy occurs or the term of office ends shall be made by the supreme court. The commission shall select one of its members as chairman.

The commission has the power to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge.

SECTION 4. AMENDMENT. Section 40-18-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-22. Continuing education of municipal judge required. Each municipal judge shall be required, within one year after his election, and at least once each calendar year thereafter, to attend and participate in an educational session designated for that

purpose by the supreme court, unless the judge is excused from such attendance by the supreme court. Such judge shall be reimbursed for his necessary expenses of travel and subsistence as other city officials are so reimbursed.

If any such judge shall fail to attend such educational session within any calendar year, without being excused therefrom by the supreme court, the state court administrator shall report such fact to the commission on judicial ~~qualifications~~ conduct for such action as it deems appropriate.

Approved March 14, 1985

## CHAPTER 340

HOUSE BILL NO. 1588  
(Representative Koland)  
(Senator Kilander)

## SMALL CLAIMS COURT JURISDICTION AND VENUE

AN ACT to amend and reenact sections 27-08.1-01 and 27-08.1-03 of the North Dakota Century Code, relating to the jurisdictional limits and venue of small claims courts.

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

\* SECTION 1. AMENDMENT. Section 27-08.1-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-01. Small claims court - Jurisdictional limits - ~~Effective date~~  
Venue.

1. All judges of the county courts shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court shall be confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed one two thousand five hundred dollars.
2. The proceedings in this court shall be commenced ~~in the county of the defendant's residence, if the defendant is a natural person; if the defendant is a corporation or a partnership, the proceedings shall be commenced in any county in which the defendant has a place of business or in any county in which the subject matter of the claim arose-;~~
  - a. If the defendant is a corporation or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.

\* NOTE: Section 27-08.1-01 was also amended by section 40 of Senate Bill No. 2086, chapter 82.

- b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
- c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
- (1) In the county of the defendant's residence or place of business; or
- (2) If the amount of the claim is less than five hundred dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
- d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
3. The defendant may elect to remove the action to a small claims court in the defendant's county of residence. No claim shall be filed by an assignee of that claim. No garnishment or attachment shall issue from this court. Actions commencing in the small claims court shall only be those in which the cause of action has accrued on or after January 17, 1971.

\* SECTION 2. AMENDMENT. Section 27-08.1-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor. No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of actions shall be informal. No court reporter shall be required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed ~~one~~ two thousand ~~five~~ hundred dollars, which shall be delivered to the plaintiff in person or mailed to him by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule shall not apply to counterclaims in excess of ~~one~~ two thousand ~~five~~ hundred dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the

\* NOTE: Section 27-08.1-03 was also amended by section 7 of Senate Bill No. 2116, chapter 336.

debtor, at the hearing, as would be made under the provisions of chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury shall not be allowed in small claims court. A fee of five dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served.

Approved April 15, 1985



## CHAPTER 341

HOUSE BILL NO. 1295  
(Representatives Oban, Conmy)  
(Senators Heinrich, Stenehjem)

## JURY DISCRIMINATION PROHIBITION

AN ACT to amend and reenact section 27-09.1-02, subsection 1 of section 27-09.1-07, and subsection 2 of section 27-09.1-08 of the North Dakota Century Code, relating to disqualification from jury service by physical disability or inability to communicate and understand English given reasonable accommodations.

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

SECTION 1. AMENDMENT. Section 27-09.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09.1-02. Discrimination prohibited. A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, physical disability, or economic status.

SECTION 2. AMENDMENT. Subsection 1 of section 27-09.1-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. From time to time and in a manner prescribed by the court, the jury commission publicly shall draw at random from the master jury wheel the names or identifying numbers of as many prospective jurors as the court by order requires. The clerk shall prepare an alphabetical list of the names drawn. Neither the names drawn nor the list shall be disclosed to any person other than pursuant to this chapter or specific order of the court. The clerk shall mail to every prospective juror whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The juror qualification form shall be subject to approval by the court as to matters of form and shall

elicit the name, address of residence, and age of the prospective juror and whether ~~he~~ the prospective juror:

- a. Is a citizen of the United States and a resident of the county;
- b. Is able with reasonable accommodation to ~~read, speak,~~ communicate and understand the English language;
- c. Has any physical or mental disability impairing his capacity to render satisfactory jury service; and
- d. Has lost the right to vote because of imprisonment resulting from conviction of a felony (section 27-09.1-08).

The juror qualification form shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgment that a willful misrepresentation of a material fact may be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commission within ten days after its second receipt.

SECTION 3. AMENDMENT. Subsection 2 of section 27-09.1-08 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A prospective juror is disqualified to serve on a jury if ~~he~~ the prospective juror:
  - a. Is not a citizen of the United States and a resident of the state and county;
  - b. Is not at least eighteen years old;
  - c. Is unable with reasonable accommodation to ~~read,~~ speak, communicate and understand the English language;
  - d. Is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate as to the

disability, and the certifying physician is subject to inquiry by the court at its discretion; or

- e. Has lost the right to vote because of imprisonment in the penitentiary (section 12.1-33-01) or conviction of a criminal offense which by special provision of law disqualified him for such service.

Approved April 4, 1985

## CHAPTER 342

SENATE BILL NO. 2452  
(Maixner)

## ATTORNEY SUSPENSION OR REVOCATION

AN ACT to amend and reenact section 27-14-02 of the North Dakota Century Code, relating to causes for suspension or revocation of a certificate of admission to the bar.

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

SECTION 1. AMENDMENT. Section 27-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-14-02. Causes for suspension or revocation of certificate of admission to bar. The certificate of admission to the bar of this state of an attorney and counselor at law may be revoked or suspended by the supreme court if he has:

1. Committed an offense determined by the supreme court to have a direct bearing upon a person's ability to serve the public as an attorney and counselor at law, or the supreme court determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1;
2. Willfully disobeyed or violated an order of the court requiring him to do or to refrain from doing an act connected with or in the course of his professional practice;
3. Willfully violated any of the duties of an attorney or counselor at law;
4. Engaged, while attorney general or assistant attorney general of this state, or while employed in the office of the attorney general, in the private practice of the law, or rendered to any person, for pay, profit, and remuneration, any legal services other than those required in performing the duties imposed upon him by virtue of the duties of his office, but an assistant attorney general may finish any case, proceeding, or legal business in which he was engaged at the time of his appointment, and

an attorney general or assistant attorney general with the permission of the attorney general may voluntarily represent indigent clients referred by an organized pro bono program in addition to the regular duties of his office; such pro bono representation must be at no cost to the state of North Dakota;

5. Appeared, while state's attorney or assistant state's attorney of any county of this state or while an employee in the office of the state's attorney, as an attorney for the defense in any criminal action which it was his duty to prosecute;
6. Been convicted of any offense mentioned in section 27-13-08, ~~section~~ 27-13-09, ~~section~~ 27-13-11, or ~~section~~ 27-13-12; or
7. Committed any other act which tends to bring reproach upon the legal profession. The enumeration of certain grounds for disbarment or suspension of attorneys at law shall not be deemed a limitation upon the general powers of the supreme court to suspend or disbar for professional misconduct.

Approved March 28, 1985



## CHAPTER 343

HOUSE BILL NO. 1341  
(Representative Unhjem)  
(Senator Stenehjem)

## JUVENILE COURTS — DEPRIVED CHILD

AN ACT to create and enact a new subdivision to subsection 5 of section 27-20-02 of the North Dakota Century Code, relating to the definition of "deprived child"; and to amend and reenact subdivision h of subsection 1 of section 27-20-06, subsection 1 of section 27-20-13, subdivision a of subsection 1 of section 27-20-15, section 27-20-16, subsections 1 and 2 of section 27-20-17, and subsection 1 of section 27-20-22 of the North Dakota Century Code, relating to juvenile courts and detention and shelter care children.

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

SECTION 1. A new subdivision to subsection 5 of section 27-20-02 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent.

\* SECTION 2. AMENDMENT. Subdivision h of subsection 1 of section 27-20-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- h. Make such temporary order not to exceed thirty days for the custody and control of a deprived child as he may deem appropriate alleged to be deprived as may be deemed appropriate. Such an order shall be reduced to writing within twenty-four hours.

\* NOTE: Section 27-20-06 was also amended by section 4 of House Bill No. 1586, chapter 334.

SECTION 3. AMENDMENT. Subsection 1 of section 27-20-13 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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, or by order of the juvenile supervisor made pursuant to subdivision h of subsection 1 of section 27-20-06,~~ 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; or
  - d. By order of the juvenile supervisor made pursuant to subdivision h of subsection 1 of section 27-20-06.

~~An order of the juvenile supervisor made pursuant to this subsection shall be reduced to writing within twenty-four hours of its issuance.~~

SECTION 4. AMENDMENT. Subdivision a of subsection 1 of section 27-20-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Release the child to his parent, guardian, ~~or other custodian, or other responsible adult able and willing to assume custody of the child,~~ 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

SECTION 5. AMENDMENT. Section 27-20-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-16. Place of detention.

1. A child alleged to be delinquent or unruly 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 or unruly 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, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, 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 e 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; or~~
  - e. 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, intake officer, or other authorized officer of the court, that public safety and protection reasonably require detention, and it is so authorized.
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 a child 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 may be 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 or unruly.
  5. Effective July 1, 1987, a child alleged to be unruly may be detained in the facilities listed in subdivisions a, b, c, and d of subsection 1.

SECTION 6. AMENDMENT. Subsections 1 and 2 of section 27-20-17 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the juvenile supervisor, the intake officer, 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~~ A judge or referee shall hold a detention or shelter care hearing shall be held promptly and not later than ninety-six hours after he the child is placed in detention or shelter care to determine whether there is probable cause to believe the child has committed the delinquent or unruly acts alleged, or the child is deprived and 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 or shelter care 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.

SECTION 7. AMENDMENT. Subsection 1 of section 27-20-22 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. After the petition has been filed, the court shall fix a time for hearing thereon, which shall not be later than thirty days after the filing of the petition. If the child is in detention, the time for the hearing shall not be later than ~~ten days after the filing of the petition~~ fourteen days after the child has been taken into custody. The court may extend the time for hearing for good cause shown. 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.

Approved March 31, 1985