

June 2009

TITLE 27

Judicial Branch of Government

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 27. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to the judicial branch of government may be classified in these subject areas: juveniles, courts, and miscellaneous.

JUVENILES

House Bill No. 1089 provides that the records of the Division of Juvenile Services relating to an individual who is or has been in the custody of the division may be disclosed to a court or probation staff for use in conducting a presentence investigation or to the Social Security Administration upon written authorization for disclosure by the individual's parent or legal guardian. The bill also provides that if the Division of Juvenile Services receives any money for child support on behalf of a child committed to its custody and care, any payments in excess of foster care maintenance payments, or money received from the Social Security Administration, the division may establish an account for the child and use the money that best serves the best interests of the child.

House Bill No. 1094 amends the definition of permanency hearing to include consideration of joint placement of siblings. The bill also provides that, with certain exceptions, reasonable efforts must be made to preserve families, reunify families, and maintain family connections to place siblings in the same foster care, relative, guardianship, or adopting placement. The bill provides that a legal custodian of a child has a duty after the removal of a child from the custody of the parent to exercise due diligence to identify and provide notice to other adult relatives regarding the specifics of the child placement.

House Bill No. 1107 deals with the responsibility for the costs and expenses for the care of a child who has been committed by the court to the legal custody of a public agency or a private agency other than the parent. The bill provides that unless the court finds that it is unlikely that the party will be unable to pay attorney's fees and expenses, the court is required to order the parents or other persons legally obligated to care for and support the child, to reimburse the presumed amount of indigent defense costs and expenses.

House Bill No. 1108 provides that for the purpose of the right to counsel under the Uniform Juvenile Court Act, a child refers to an individual who is under 18 years of age at the time of the proceeding.

House Bill No. 1159 provides that, with respect to the retention and disposition of juvenile court records, each agency, except the Department of Human Services, the Department of Corrections and Rehabilitation, and county social services may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency.

House Bill No. 1333 provides that the juvenile court has exclusive original jurisdiction of civil forfeiture proceedings arising under Chapter 19-03.1 or Section 29-31.1-04 for which a child is alleged to have possessed forfeitable property.

Senate Bill No. 2159 clarifies that if a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the drug court may order the child detained in a juvenile detention center.

Senate Bill No. 2169 provides that with certain exceptions, the law enforcement and correctional facility records and files of a child alleged or found to be delinquent, unruly, or deprived are not open to public inspection.

COURTS

House Bill No. 1296 increases the maximum amount that may be claimed in an action in small claims court from \$5,000 to \$10,000.

Senate Bill No. 2002 provides for changes to the salaries of justices of the Supreme Court and district court judges.

Senate Bill No. 2069 increases the cap on the portion of the civil case filing fee which is deposited into the civil legal services defense fund from \$400,000 to \$650,000 per biennium.

Senate Bill No. 2118 increases juror compensation from \$25 for the first day of required attendance at sessions of the district court to \$50 for the first day and all subsequent days of required attendance unless the juror is in attendance for four hours or less on the first day in which case compensation for the first day is \$25.

Senate Bill No. 2120 clarifies those prospective jurors who may be disqualified from the jury pool. The bill provides that a prospective juror is disqualified from the jury pool if the prospective juror is not a citizen of the United States and a resident of the state and county in the jury pool.

Senate Bill No. 2121 authorizes the Supreme Court to designate by rule the judicial districts in this state and the number of judges in each of the judicial districts. The bill also amends the procedure of the Supreme Court with respect to the abolition of district judgeships.

Senate Bill No. 2122 provides for a copy of a transcript in a criminal action to be provided to the Department of Corrections and Rehabilitation if the defendant is sentenced to the legal and physical custody of, or placed under the supervision and management of, the Department of Corrections and Rehabilitation.

MISCELLANEOUS

House Bill No. 1207, with respect to the conduct of attorneys, provides that an attorney who serves as a fiduciary of an estate, trust, or conservatorship must be represented by another attorney. The bill provides that the attorney who serves as fiduciary or the attorney's law firm may not serve as attorney for the fiduciary.

House Bill No. 1324 removes a cross-reference to Section 57-38-30.3, which is being repealed by this bill.