

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1035

Page 1, line 10, after the first comma insert "section 27-20.3-05 as created by section 24 of this Act, section 27-20.4-06 as created by section 26 of this Act,"

Page 1, line 17, remove "and"

Page 1, line 17, after "penalty" insert "; and to provide an effective date"

Page 2, line 4, remove **(Contingent effective date - See note)**

Page 2 remove lines 5 through 31

Page 3 remove lines 1 through 31

Page 4 remove lines 1 through 31

Page 5 remove lines 1 through 31

Page 6 remove lines 1 through 31

Page 7 remove lines 1 through 31

Page 8 remove lines 1 through 31

Page 9 remove lines 1 through 30

Page 10 remove lines 1 through 30

Page 11 remove lines 1 through 20

Page 3 remove lines 1 through

Page 23, line 13, after "~~27-20-47~~" insert "27-20.3-20, 27-20.3-21,"

Page 23, line 13, remove ", ~~27-20.3-24, 27-20.3-25~~"

Page 23, line 14, replace "~~27-20.3-26~~" with "27-20.3-24"

Page 23, line 28, replace "~~27-20.3-24~~" with "27-20.3-22"

Page 25, line 26, replace "~~27-20.2-22~~" with "27-20.2-21"

Page 26, line 2, replace "~~27-20.2-22~~" with "27-20.2-21"

Page 26, line 7, replace "~~27-20.2-22~~" with "27-20.2-21"

Page 30, line 15, remove the underscored semicolon

Page 30, remove lines 16 through 23

Page 30, line 24, remove "the operating hours of school"

Page 30, line 27, after "a." insert "Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized absence more than five days during a school year;

b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian and is ungovernable or who is willfully in a situation that is dangerous or injurious to the health, safety, or morals of the child or others;

c."

Page 30, line 30, remove "b. Has committed an offense in violation of section 5-01-08;"

Page 31, line 1, replace "c." with "d."

Page 32, line 16, replace "27-20.3-17" with "27-20.3-16"

Page 32, line 20, replace "27-20.2-22" with "27-20.2-21"

Page 34, line 14, after "custodian" insert ", including running away."

Page 34, line 19, after the underscored semicolon insert "or"

Page 34, line 20, remove "Has committed an offense in violation of minor in consumption or minor in"

Page 34, remove line 21

Page 34, line 22, remove "e."

Page 34, line 27, replace "f." with "e."

Page 35, line 3, remove ", and the crime does not fall under subdivision c of"

Page 35, line 4, remove "subsection 21"

Page 35, line 24, after "court" insert "or a referral for service"

Page 37, line 9, replace "27-20.3-17" with "27-20.3-16"

Page 38, line 7, replace "27-20.2-20" with "27-20.2-19"

Page 41, line 25, replace "Except in the case of undue hardship, the" with "The"

Page 41, line 27, after the underscored period insert "The court must include this finding in the findings of fact and order for disposition."

Page 45, line 15, replace "27-20.3-28" with "27-20.3-26"

Page 46, remove lines 23 through 31

Page 47, remove lines 1 through 11

Page 47, line 12, replace "27-20.2-17" with "27-20.2-16"

Page 47, line 24, replace "27-20.2-18" with "27-20.2-17"

Page 48, line 27, replace "27-20.2-19" with "27-20.2-18"

Page 49, line 6, replace "27-20.2-20" with "27-20.2-19"

Page 51, line 3, replace "27-20.2-21" with "27-20.2-20"

Page 51, line 12, replace "27-20.2-22" with "21-20.2-21"

Page 53, line 1, after "finds" insert "that"

Page 53, line 1, remove "is in need of"

Page 53, line 2, remove "services or"

Page 53, line 22, replace "27-20.3-14" with "27-20.3-13"

Page 54, line 1, replace "**27-20.2-23**" with "**27-20.2-22**"

Page 54, line 8, replace "**27-20.2-24**" with "**27-20.2-23**"

Page 55, line 5, replace "**27-20.2-25**" with "**27-20.2-24**"

Page 55, line 22, replace "27-20.2-26" with "27-20.2-25"

Page 56, line 13, replace "27-20.2-26" with "27-20.2-25"

Page 56, line 14, replace "**27-20.2-26**" with "**27-20.2-25**"

Page 57, line 10, replace "**27-20.2-27**" with "**27-20.2-26**"

Page 57, line 25, replace "**27-20.2-28**" with "**27-20.2-27**"

Page 57, line 28, replace "**27-20.2-29**" with "**27-20.2-28**"

Page 60, line 20, after "custodian" insert ", including running away."

Page 60, line 25, after the underscored semicolon insert "or"

Page 60, line 26, remove "Has committed an offense in violation of minor in consumption or minor in"

Page 60, remove line 27

Page 60, line 28, remove "e."

Page 61, line 3, replace "f." with "e."

Page 63, line 2, remove "delinquent"

Page 63, line 4, after "director" insert "or human service zone"

Page 63, line 30, remove "the commencement of proceedings"

Page 63, line 31, replace "under this chapter" with "diversion of services"

Page 64, line 3, remove "by use of nonjudicial commencement of proceedings"

Page 64, line 5, remove "Supervise and assist a child placed on probation for a child in need of services."

Page 64, line 6, remove "e."

Page 64, line 8, replace "f." with "e."

Page 64, line 12, replace "g." with "f."

Page 64, line 13, replace "h." with "g."

Page 64, line 17, replace "i." with "h."

Page 64, line 19, replace "j." with "i."

Page 64, line 21, replace "k." with "j."

Page 65, line 1, remove "A referral alleging that a child is a child in need of services under subdivision a, b, c, e."

Page 65, remove lines 2 and 3

Page 65, line 4, remove "3."

Page 65, line 4, remove "subdivision d of"

Page 65, line 5, remove "subsection 4 of"

Page 65, line 6, replace "4." with "3."

Page 65, line 14, replace "5." with "4."

Page 65, line 21, replace "6." with "5."

Page 66, line 14, replace "shall" with "may"

Page 66, line 25, replace "of" with "or"

Page 67, line 10, replace "warrant" with "temporary custody order"

Page 67, line 21, replace the third "the" with "an"

Page 67, line 21, after the second "court" insert "or human service zone"

Page 68, line 5, remove "services or"

Page 68, line 10, remove ", and of the child's right to remain"

Page 68, remove line 11

Page 68, line 12, remove "is in need of services"

Page 68, line 14, replace "of the" with "the child was placed in"

Page 68, line 30, remove "1."

Page 69, remove lines 1 through 8

Page 69, line 9, replace "**27-20.3-13**" with "**27-20.3-12**"

Page 69, line 16, replace "**27-20.3-14**" with "**27-20.3-13**"

Page 69, line 17, after "court" insert "without a jury, in an informal but orderly manner and separately from other proceedings not included in section 27-20.2-03 and"

Page 69, line 20, remove "If the child elects to"

Page 69, remove lines 21 and 22

Page 69, line 25, replace "Except for informal adjustments under section 27-20.2-09, the" with "The"

Page 70, line 6, replace "**27-20.3-15**" with "**27-20.3-14**"

Page 70, line 8, remove "services or"

Page 70, line 11, remove "The findings must be prepared, filed, and"

Page 70, line 12, remove "served on all parties by the state's attorney."

Page 70, line 27, replace "27-20.3-16" with "27-20.3-15"

Page 71, line 24, replace "27-20.3-17" with "27-20.3-16"

Page 72, line 18, replace "27-20.3-20" with "27-20.3-18"

Page 73, line 1, replace "27-20.3-26" with "27-20.3-24"

Page 73, line 3, replace "27-20.3-22" with "27-20.3-20"

Page 73, line 6, replace "27-20.3-18" with "27-20.3-17"

Page 73, remove lines 14 through 19

Page 73, line 20, replace "27-20.3-20" with "27-20.3-18"

Page 75, line 1, replace "27-20.3-21" with "27-20.3-19"

Page 75, line 4, replace "27-20.3-21" with "27-20.3-19"

Page 77, line 27, replace "27-20.3-28" with "27-20.3-26"

Page 79, line 5, replace "27-20.3-22" with "27-20.3-20"

Page 79, line 10, remove "of services or"

Page 79, line 15, remove ", or, in cases arising out of an"

Page 79, remove line 16

Page 79, line 17, remove "division of juvenile services."

Page 79, line 26, replace "27-20.3-16" with "27-02.3-15"

Page 79, line 28, replace "27-20.3-23" with "27-20.3-2."

Page 81, line 17, replace "27-20.3-28" with "27-20.3-26"

Page 82, line 26, replace "27-20.3-24" with "27-20.3-22"

Page 82, line 29, replace "27-20.3-25" with "27-20.3-23"

Page 84, line 4, replace "27-20.3-25" with "27-20.3-23"

Page 84, line 10, replace "27-20.3-26" with "27-20.3-24"

Page 84, line 27, replace "27-20.3-27" with "27-20.3-25"

Page 85, line 3, replace "27-20.3-28" with "27-20.3-26"

Page 86, after line 17, insert:

**"SECTION 24.** Section 27-20.3-05 of the North Dakota Century Code, as created by section 23 of this Act, is amended and reenacted as follows:

**27-20.3-05. Method of making a child in need of services referral.**

1. A referral alleging a child is a child in need of services may be made by a parent, guardian or other custodian, a law enforcement officer, a school official, or any other person that has knowledge of the facts alleged and believes such facts are true.

2. A referral alleging a child is a child in need of services under section 27-20.2-01 must be sent to the juvenile court.
3. The referral must be set forth in writing and must set forth the following:
  - a. The name, date of birth, and residence address of the child alleged to be a child in need of services;
  - b. The names and residence addresses of the parent, guardian or legal custodian, any other family members, or any other individuals living within the child's home;
  - c. The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the child; and
  - d. Whether any of the matters required by this subsection are unknown.
4. If a school official is filing a referral alleging a child is a child in need of services, information must be included which shows:
  - a. The legally responsible school district has sought to resolve the expressed problem through all appropriate and available educational approaches; and
  - b. The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.
5. If a school official is filing a complaint alleging a child is a child in need of services involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725], information must be included which demonstrates that the legally liable school district:
  - a. Has determined the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725]; and
  - b. Has reviewed for appropriateness the child's current individualized education program and placement and has made modifications as appropriate.
6. A referral alleging that a child is a child in need of services under section 27-20.2-01 must be sent to the applicable human service zone.

Page 87, line 10, remove ", and the crime does not fall under subdivision c of"

Page 87, line 11, remove "subsection 21 of section 27-20.2-01"

Page 88, line 29, after "25." insert "Juvenile drug court" means a program established by the supreme court which is a post-petition or post-adjudication program aimed at intervening in substance use disorders through intense supervision and participation in recovery services.

26."

Page 89, line 1, replace "26." with "27."

Page 89, line 4, replace "27." with "28."

Page 89, line 5, replace "28." with "29."

Page 89, line 8, replace "29." with "30."

Page 89, line 10, replace "30." with "31."

Page 89, line 18, replace "31." with "32."

Page 89, line 20, replace "32." with "33."

Page 89, line 21, replace "33." with "34."

Page 89, line 29, replace "jurisdiction" with "venue"

Page 91, line 16, after "detention" insert "and whether the child is a public safety risk"

Page 92, after line 9, insert:

"h. If a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the court may order the child detained in a juvenile detention center operated pursuant to chapter 12-44.1. The child may be detained twice during the child's participation in the program with the total period of detention under this section not to exceed four days in a one-year period."

Page 95, line 28, remove "The child has no prior formal court adjudications for a similar offense type:"

Page 95, line 29, remove "b."

Page 96, line 1, replace "c." with "b."

Page 96, line 3, replace "d." with "c."

Page 96, line 6, replace "a delinquent act" with "an infraction or misdemeanor offense"

Page 97, line 8, remove "The juvenile court director or designee shall make a diligent inquiry as to the"

Page 97, remove lines 9 and 10

Page 97, line 27, after the underscored period insert "The juvenile court must conduct an inquiry into and provide the last known addresses of the parents and guardians of the child in the referral to the state's attorney."

Page 97, line 29, after "jury" insert ", in an informal but orderly manner and separately from other proceedings not included in section 27-20.2-03 and"

Page 99, after line 4, insert:

"e. The child to be examined to determine the child's competence or criminal responsibility. If the child is found to lack competency or criminal responsibility the court may:

- (1) Dismiss the delinquency proceedings against the child and order the release of the child to the child's parent, guardian, or legal custodian upon conditions considered appropriate by the court;

- (2) Suspend the delinquency proceedings against the child for a period of up to one year and order services be provided to the child as an outpatient or inpatient, by commitment to an institution for persons with intellectual disabilities or mental illness; or
- (3) Dismiss the delinquency proceedings and direct that child in need of protection proceedings be initiated."

Page 100, line 9, replace "Accountability to the victim" with "Repairing harm caused to the victim or community"

Page 106, line 4, after "child" insert "and has determined that such treatment cannot be provided in their home community"

Page 108, after line 30, insert:

**"27-20.4-26. Substance use programming.**

1. If a child is subject to nonjudicial adjustments under this chapter and is found to be delinquent under section 27-20.4-16, or is found to be in need of services or protection under section 27-20.3-16, the juvenile court may require a substance use screening and subsequent programming to appropriately address:
  - a. A child who is found to have violated section 39-08-01 or equivalent;  
or
  - b. If a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle.
2. If a child is subject to informal adjustment under this chapter and is required to participate in the twenty-four seven sobriety program, the period of participation may not exceed six months.
3. If a child required to participate in the twenty-four seven sobriety program under this section fails to comply with program requirements without being excused, the testing site shall notify the juvenile court and refer the child to the juvenile court for further disposition. The child may not be detained or otherwise taken into custody without authorization from the juvenile court.
4. If the juvenile court requires the child to participate in a juvenile drug court program, the juvenile court may waive the participation in the twenty-four seven sobriety program requirements of this section.

**SECTION 26.** Section 27-20.4-06 of the North Dakota Century Code , as created by section 25 of this Act, is amended and reenacted as follows:

**27-20.4-06. Detention - Nonsecure care of child.**

1. A child taken into custody may not be detained or placed in nonsecure care before the hearing on the petition unless the child's detention or nonsecure care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because the child has no parent, guardian, or

custodian or other person able to provide supervision and care for the child and return the child to the court if required, or an order for the child's detention or nonsecure care has been made by the court pursuant to this chapter.

2. Law enforcement, juvenile court staff, and division staff shall use a detention screening tool to assure the appropriate use of detention and whether the child is a public safety risk. The juvenile court shall establish the detention screening tool, which must include objective factors to aid in the decision of placement of the child. Law enforcement, court records, and division records must include data on detention screening scores and, if the score does not authorize detention, the explanation for the override resulting in placing the juvenile in detention.
3. The court may place a juvenile in detention before adjudication only if the court finds releasing the child would pose an unreasonable risk to public safety and that all restrictive alternatives have been considered.
4. A juvenile may be placed in a secure detention facility if one or more of the following conditions are met:
  - a. The child is alleged to have committed an offense that if committed by an adult would constitute a felony against person, felony weapon, or felony drug distribution;
  - b. The child has a record of failure to appear in court or there is probable cause to believe that the child will flee the jurisdiction of the court;
  - c. The child has violated the terms of detention release on home confinement or electronic monitoring;
  - d. There is oral or written verification that the child is an alleged delinquent child sought for an offense in another jurisdiction or that the child left a juvenile detention facility without authorization.
  - e. The child is an out-of-state runaway subject to the rules of the interstate commission on juveniles;
  - f. The child meets criteria for secure detention on the detention screening tool; or
  - g. The child meets criteria for an override on the detention screening tool.
  - h. ~~If a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the court may order the child detained in a juvenile detention center operated pursuant to chapter 12-44.1. The child may be detained twice during the child's participation in the program with the total period of detention under this section not to exceed four days in a one-year period.~~
5. ~~A child may not be placed in detention solely due to lack of supervision alternatives or due to the community's inability to provide appropriate treatment or services. A child may not be placed in detention by law enforcement or juvenile court, including drug court solely;~~

- a. Due to a lack of supervision alternatives, service options, or more appropriate facilities.
  - b. Due to the community's inability to provide treatment or services.
  - c. Due to a lack of supervision in the home or community.
  - d. In order to allow a parent, guardian, or legal custodian to avoid his or her legal responsibility.
  - e. Due to a risk of the juvenile's self-harm.
  - f. In order to attempt to punish, treat, or rehabilitate the child.
  - g. Due to a request by a victim, law enforcement, or the community.
  - h. In order to permit more convenient administrative access to the juvenile.
6. Alternatives to secure detention may be utilized to include home confinement, electronic monitoring, and parental or guardian supervision if the court determines there is no unreasonable risk to public safety.
  7. A child placed in detention must have a mental health and trauma screening tool completed by the juvenile detention center or by juvenile court upon entry and provide that information to the juvenile court before release or detention hearing."

Page 111, line 5, replace "27-20.2-22" with "27-20.2-21"

Page 117, after line 14, insert:

**"SECTION 43. EFFECTIVE DATE.** Sections 24 and 26 of this Act are effective August 1, 2022."

Renumber accordingly