

DOMESTIC RELATIONS AND PERSONS

CHAPTER 126

S. B. No. 113
(Longmire)

SERVICEMEN'S RESIDENCE

AN ACT

To create and enact section 14-03-01.1 and to amend and reenact section 14-03-10 of the North Dakota Century Code, relating to the residence of members of the armed forces stationed within North Dakota for domestic relations purposes.

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

§ 1.) Section 14-03-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

14-03-01.1. Members of Armed Forces Deemed Residents.) For the purpose of instituting any action or proceeding in the courts of this state, under the provisions of this title, in which residence is a requirement, any member of any branch of the armed forces of the United States who is stationed within the state, and the wife or husband of such member, if she or he be living within the state, shall be deemed to be a resident of the state of North Dakota.

§ 2. **Amendment.)** Section 14-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-10. Marriage May Not Be Solemnized Without License—Residence Required.) No person shall solemnize any marriage until the parties thereto shall produce a license regularly issued not more than sixty days prior to the date of such marriage by the county judge of the county in which either of the contracting parties or the parents of either of the parties resides, or if such county is unorganized, or disorganized, of the county to which it is attached for judicial purposes, or if the contracting parties are residents of another state by the county judge of the county wherein the marriage is to be solemnized according to the terms of section 14-03-19. For the purpose of obtaining a marriage license, a member of the armed forces of the United States stationed within the state of North Dakota shall be deemed to reside in the county wherein he is stationed.

Approved February 21, 1963.

CHAPTER 127

S. B. No. 246
(Brooks, Holand)

DENIAL OF DIVORCE

AN ACT

To amend and reenact section 14-05-10 of the North Dakota Century Code, relating to grounds for divorce and to repeal section 14-05-15 of the North Dakota Century Code relating to recrimination.

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

§ 1. Amendment.) Section 14-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-10. Denial of Divorce.) Divorces must be denied upon showing:

1. Connivance;
2. Collusion;
3. Condonation; or
4. Limitation and lapse of time.

§ 2. Repeal.) Section 14-05-15 of the North Dakota Century Code is hereby repealed.

Approved March 6, 1963.

CHAPTER 128

H. B. No. 836
(Johnston)

TWENTY-FIRST BIRTHDAY CARDS

AN ACT

To provide for issuance of twenty-first birthday cards.

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

§ 1. Twenty-First Birthday Cards — Application — Misrepresentation of Age—Penalty.) Every person who attains the age of twenty-one years may apply to the clerk of the district court of the county in which the person resides or is temporarily located, on a form provided by the clerk of the district court, for a twenty-first birthday card, which shall be accom-

panied with a photograph of the applicant. The applicant shall present with the application his birth certificate or other satisfactory evidence that he is twenty-one years of age, and shall pay a fee of \$1.50, to be deposited in the county general fund. The clerk shall file the application and issue the card to the applicant in a form prescribed by the clerk. The applicant shall sign the card with his name, and the card shall thereafter be exhibited upon demand of a licensee, employee or other person selling, giving or disposing of alcoholic beverages or of any peace officer. Any misrepresentation of age or other deceit practiced in the procurement of a card, or the use or exhibition for the purpose of procuring alcoholic beverages of a card belonging to a person other than the person exhibiting the card, is a misdemeanor.

Approved March 13, 1963.

CHAPTER 129

S. B. No. 315

(Longmire, Wartner, Ringsak)

ADOPTION HEARINGS

AN ACT

To amend and reenact section 14-11-10 of the North Dakota Century Code Supplement, relating to hearing in adoption proceedings and service of notice thereof.

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

§ 1. Amendment.) Section 14-11-10 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

14-11-10. Hearing in Adoption Proceedings and Service of Notice Thereof.) The court shall appoint a time and place for hearing the petition and shall allow reasonable time not exceeding forty days for the investigation required by section 14-11-09. Notice of the hearing, unless waived in writing by the respondent, shall be given to the director of the division of child welfare at least twenty days before the hearing in such manner as the court may direct and proof thereof shall be filed with the clerk of the court prior to the hearing on said petition. Whenever a minor child to be adopted has a guardian, notice of the hearing shall be given to such guardian. When the parents of any minor child are dead or have abandoned the child and cannot be found, and the child has no duly appointed guardian in the state, notice of the hearing on

the petition for adoption shall be given to the person who is caring for or has custody of the child. Notice must be given to any parent not consenting, whose parental rights have not been terminated, including a parent who has lost custody of the child through divorce proceedings, a parent who is insane or otherwise incapable of giving consent, and to the father of an illegitimate child who has acknowledged paternity or against whom paternity has been adjudicated, unless the father has disclaimed in writing all parental rights with reference to the child. Such notice shall be given in such a manner as the court may direct. In the event that the court shall require notice to be given by publication, such notice shall be published once a week for three successive weeks, the last publication to be at least ten days prior to the day set for the hearing. If the hearing cannot be had at the time appointed it shall be adjourned and the court may upon its own motion or upon motion of any interested person fix another time for the hearing and upon such hearing may grant or deny the petition or grant a further adjournment. The petitioner and the person to be adopted, if over ten years of age, shall attend the hearing unless the court otherwise orders.

Approved March 8, 1963.

CHAPTER 130

S. B. No. 348

(Longmire, Wartner, Ringsak)

CHILD PLACEMENT COMPACT

AN ACT

To enact an interstate compact with other member states of the compact, relating to the interstate placement of children for the purposes of foster care or adoption and for the placement of delinquent children in institutions in other member states.

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

§ 1. **Establishment of Interstate Compact—Text.)** The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

Article I—Purpose and Policy.

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

1. Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.
2. The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.
3. The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.
4. Appropriate jurisdictional arrangements for the care of children will be promoted.

Article II—Definitions.

As used in this compact:

1. "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.
2. "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.
3. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.
4. "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

Article III—Conditions for Placement.

1. No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

2. Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:
 - a. The name, date and place of birth of the child.
 - b. The identity and address or addresses of the parents or legal guardian.
 - c. The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
 - d. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.
3. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph 2 of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.
4. The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article IV—Penalty for Illegal Placement.

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

Article V—Retention of Jurisdiction.

1. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to

the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

2. When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.
3. Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph 1 hereof.

Article VI—Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article VII—Compact Administrator.

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who,

acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article VIII—Limitations.

This compact shall not apply to:

1. The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.
2. Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article IX—Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article X—Construction and Severability.

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force as to the state affected as to all severable matters.

§ 2. Determination of Financial Responsibility.) Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of North Dakota laws fixing responsibility for the support of children also may be invoked.

§ 3. Definitions.) In this Act unless the context or subject matter otherwise requires:

1. "Appropriate public authorities" as used in Article III of the compact shall, with reference to this state, mean the division of child welfare of the public welfare board of North Dakota, and such division shall receive and act with reference to notices required by said Article III.
2. "Appropriate authority in the receiving state" as used in paragraph 1 of Article V of the compact with reference to this state shall mean the director of the division of child welfare of the public welfare board of North Dakota.

§ 4. Authority to Enter Into Agreements—Limitation.) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph 2 of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the governor in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

§ 5. Inspection and Supervision in Other State.) Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section 50-11 of the North Dakota Century Code shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph 2 of Article V of the Interstate Compact on the Placement of Children.

§ 6. Restrictions Not To Apply.) The provisions of section 50-12-16 of the North Dakota Century Code shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

§ 7. Placement of Delinquent Children.) Any court having jurisdiction to place delinquent children may place such a

child in an institution of or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof.

§ 8. Governor to Appoint Compact Administrator.) As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

§ 9. Effective Date.) This Act shall be effective July 1, 1963.

Approved March 18, 1963.