

**FIRST ENGROSSMENT  
with Senate Amendments**

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1092**

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to create and enact sections 27-20-32.3, 27-20-48.2, 27-20-48.3, and  
2 27-20-48.4 of the North Dakota Century Code, relating to active efforts in juvenile proceedings  
3 regarding Indian children and legal guardianships for children; to amend and reenact section  
4 12-46-14, subsection 1 of section 15.1-29-14, sections 27-20-02 and 27-20-06, subsection 1 of  
5 section 27-20-10, sections 27-20-12, 27-20-13, 27-20-14, 27-20-15, 27-20-17, 27-20-19,  
6 27-20-20, 27-20-24, 27-20-26, 27-20-28, 27-20-30, 27-20-31, 27-20-32.1, subsection 4 of  
7 section 27-20-34, subsections 2 and 3 of section 27-20-36, subsection 3 of section 27-20-37,  
8 subsection 1 of section 27-20-40, subsection 1 of section 27-20-42, section 27-20-44,  
9 subsection 2 of section 27-20-45, and sections 27-20-48, 27-20-48.1, 27-20-50, 27-20-54,  
10 27-20-59, and 54-12-01.3 of the North Dakota Century Code, relating to proceedings under the  
11 Uniform Juvenile Court Act and references to juvenile supervisor; to repeal sections 27-05-29,  
12 27-20-01, and 27-20-35 of the North Dakota Century Code, relating to assigned duties of  
13 juvenile supervisors and Uniform Juvenile Court Act proceedings; and to provide for a  
14 legislative council study.

15 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

16 **SECTION 1. AMENDMENT.** Section 12-46-14 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **12-46-14. Transportation of persons committed to North Dakota youth**  
19 **correctional center.** The director of juvenile supervisor court, or other officer or person  
20 designated by the court at the time commitment is ordered, shall conduct to the North Dakota  
21 youth correctional center all persons committed to it. Such person shall receive the amount of  
22 mileage allowed in section 11-15-25.

23 **SECTION 2. AMENDMENT.** Subsection 1 of section 15.1-29-14 of the North Dakota  
24 Century Code is amended and reenacted as follows:



1           **SECTION 3. AMENDMENT.** Section 27-20-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **27-20-02. Definitions.** As used in this chapter:

4           1. "Abandon" means:

5           a. As to a parent of a child not in the custody of that parent, failure by the  
6 noncustodial parent significantly without justifiable cause:

7           (1) To communicate with the child; or

8           (2) To provide for the care and support of the child as required by law; or

9           b. As to a parent of a child in that parent's custody:

10           (1) To leave the child for an indefinite period without making firm and  
11 agreed plans, with the child's immediate caregiver, for the parent's  
12 resumption of physical custody;

13           (2) Following the child's birth or treatment at a hospital, to fail to arrange for  
14 the child's discharge within ten days after the child no longer requires  
15 hospital care; or

16           (3) To willfully fail to furnish food, shelter, clothing, or medical attention  
17 reasonably sufficient to meet the child's needs.

18           2. "Abandoned infant" means a child who has been abandoned before reaching the  
19 age of one year.

20           3. "Aggravated circumstances" means circumstances in which a parent:

21           a. Abandons, tortures, chronically abuses, or sexually abuses a child;

22           b. Fails to make substantial, meaningful efforts to secure treatment for the  
23 parent's addiction, mental illness, behavior disorder, or any combination of  
24 those conditions for a period equal to the lesser of:

25           (1) One year; or

26           (2) One-half of the child's lifetime, measured in days, as of the date a  
27 petition alleging aggravated circumstances is filed;

28           c. Engages in conduct prohibited under sections 12.1-20-01 through 12.1-20-08  
29 or chapter 12.1-27.2, in which a child is the victim or intended victim;

- 1 d. Engages in conduct that constitutes one of the following crimes, or of an  
2 offense under the laws of another jurisdiction which requires proof of  
3 substantially similar elements:
- 4 (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or  
5 subdivision a of subsection 1 of section 14-09-22 in which the victim is  
6 another child of the parent;
- 7 (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of  
8 section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a  
9 child of the parent; or
- 10 (3) A violation of section 12.1-17-02 in which the victim is a child of the  
11 parent and has suffered serious bodily injury;
- 12 e. Engages or attempts to engage in conduct, prohibited under sections  
13 12.1-17-01 through 12.1-17-04, in which a child is the victim or intended  
14 victim; ~~or~~
- 15 f. Has been incarcerated under a sentence for which the latest release date is:
- 16 (1) In the case of a child age nine or older, after the child's majority; or  
17 (2) In the case of a child, after the child is twice the child's current age,  
18 measured in days;
- 19 g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or  
20 any controlled substance as defined in chapter 19-03.1 in a manner not  
21 lawfully prescribed by a practitioner; or
- 22 h. Allows the child to be present in an environment subjecting the child to  
23 exposure to a controlled substance, chemical substance, or drug  
24 paraphernalia as prohibited by section 19-03.1-22.2.
- 25 4. "Child" means an individual who is:
- 26 a. Under the age of eighteen years and is ~~neither not~~ not married ~~and cohabiting~~  
27 ~~with spouse nor in the military service of the United States~~; or
- 28 b. Under the age of twenty years with respect to a delinquent act committed  
29 while under the age of eighteen years.

- 1           5. "Custodian" means a person, other than a parent or legal guardian, who stands  
2           in loco parentis to the child or a person to whom legal custody of the child has  
3           been given by order of a court.
- 4           6. "Delinquent act" means an act designated a crime under the law, including local  
5           ordinances or resolutions of this state, or of another state if the act occurred in that  
6           state, or under federal law, and the crime does not fall under subdivision c of  
7           subsection ~~48~~ and is not a traffic offense as defined in subsection ~~17~~ 19.
- 8           7. "Delinquent child" means a child who has committed a delinquent act and is in  
9           need of treatment or rehabilitation.
- 10          8. "Deprived child" means a child who:
- 11           a. Is without proper parental care or control, subsistence, education as required  
12           by law, or other care or control necessary for the child's physical, mental, or  
13           emotional health, or morals, and the deprivation is not due primarily to the  
14           lack of financial means of the child's parents, guardian, or other custodian;
- 15           b. Has been placed for care or adoption in violation of law;
- 16           c. Has been abandoned by the child's parents, guardian, or other custodian;
- 17           d. Is without proper parental care, control, or education as required by law, or  
18           other care and control necessary for the child's well-being because of the  
19           physical, mental, emotional, or other illness or disability of the child's parent or  
20           parents, and that such lack of care is not due to a willful act of commission or  
21           act of omission by the child's parents, and care is requested by a parent;
- 22           e. Is in need of treatment and whose parents, guardian, or other custodian have  
23           refused to participate in treatment as ordered by the juvenile court;
- 24           f. Was subject to prenatal exposure to chronic ~~and~~ or severe use of alcohol or  
25           any controlled substance as defined in chapter 19-03.1 in a manner not  
26           lawfully prescribed by a practitioner; or
- 27           g. Is present in an environment subjecting the child to exposure to a controlled  
28           substance, chemical substance, or drug paraphernalia as prohibited by  
29           section 19-03.1-22.2.
- 30          9. "Detention" means a physically secure facility with locked doors and does not  
31          include shelter care, attendant care, or home detention.

- 1           10.    "Director" means the director of juvenile court or the director's designee.
- 2           11.    "Fit and willing relative or other appropriate individual" means a relative or other  
3           individual who has been determined, after consideration of an assessment that  
4           includes a criminal history record investigation under chapter 50-11.3, to be a  
5           qualified person under chapter 30.1-27, and who consents in writing to act as a  
6           legal guardian.
- 7    ~~44.~~ 12.    "Home" when used in the phrase "to return home" means the abode of the child's  
8           parent with whom the child formerly resided.
- 9    ~~42.~~ 13.    "Juvenile court" means the district court of this state.
- 10       14.    "Juvenile drug court" means a program established in a judicial district consisting  
11       of intervention and assessment of juveniles involved in forms of substance abuse;  
12       frequent drug testing; intense judicial and probation supervision; individual, group,  
13       and family counseling; substance abuse treatment; educational opportunities; and  
14       use of sanctions and incentives.
- 15    ~~43.~~ 15.    "Permanency hearing" means a hearing, conducted with respect to a child who is  
16       in foster care, to determine the permanency plan for the child which includes:  
17       a.    Whether and, if applicable, when the child will be returned to the parent;  
18       b.    Whether and, if applicable, when the child will be placed for adoption and the  
19       state will file a petition for termination of parental rights;  
20       c.    Whether and, if applicable, when a fit and willing relative or other appropriate  
21       individual will be appointed as a legal guardian;  
22       d.    In cases in which a compelling reason has been shown that it would not be in  
23       the child's best interests to return home, to have parental rights terminated, to  
24       be placed for adoption, to be placed with a fit and willing relative, or to be  
25       placed with a legal guardian, whether and, if applicable, when the child will be  
26       placed in another planned permanent living arrangement;  
27       e.    In the case of a child who has been placed in foster care outside the state in  
28       which the home of the parents is located, or if the parents maintain separate  
29       homes, outside the state in which the home of the parent who was the child's  
30       primary caregiver is located, whether the out-of-state placements have been  
31       considered. If the child is currently in an out-of-state placement, the court

1                    shall determine whether the placement continues to be appropriate and in the  
2                    child's best interests; and

3                    f.    In the case of a child who has attained age sixteen, the services needed to  
4                    assist the child to make the transition from foster care to independent living.

5    ~~44.~~ 16.    "Protective supervision" means supervision ordered by the court of children found  
6                    to be deprived or unruly.

7    ~~45.~~ 17.    "Relative" means:

8                    a.    The child's grandparent, great-grandparent, sibling, half-sibling, aunt,  
9                    great-aunt, uncle, great-uncle, nephew, niece, or first cousin;

10                   b.    An individual with a relationship to the child, derived through a current or  
11                   former spouse of the child's parent, similar to a relationship described in  
12                   subdivision a;

13                   c.    An individual recognized in the child's community as having a relationship  
14                   with the child similar to a relationship described in subdivision a; or

15                   d.    The child's stepparent.

16    ~~46.~~ 18.    "Shelter care" means temporary care of a child in physically unrestricted facilities.

17    ~~47.~~    ~~"Traffic offense" means a violation of a law or local ordinance or resolution~~  
18                   ~~governing the operation of a vehicle upon the highways of this state, or the~~  
19                   ~~waterways within or adjoining this state, by a child who has been issued a valid~~  
20                   ~~operator's license or permit if one is required, other than manslaughter resulting~~  
21                   ~~from the operation of a motor vehicle in violation of section 12.1-16-02; negligent~~  
22                   ~~homicide in violation of section 12.1-16-03; and driving or being in actual physical~~  
23                   ~~control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.~~

24    ~~48.~~ 19.    "Unruly child" means a child who:

25                   a.    Is habitually and without justification truant from school;

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

- 1 c. Has committed an offense applicable only to a child, except for an offense  
2 committed by a minor fourteen years of age or older under subsection 2 of  
3 section 12.1-31-03 or an equivalent local ordinance or resolution;
- 4 ~~d. Has committed a noncriminal traffic offense without ever having been issued~~  
5 ~~an operator's license or permit if one was required;~~
- 6 e. Has committed an offense in violation of section ~~39-08-18~~ or 5-01-08; or
- 7 f. e. Is under the age of fourteen years and has purchased, possessed, smoked,  
8 or used tobacco or tobacco-related products in violation of subsection 2 of  
9 section 12.1-31-03; and
- 10 ~~g. f.~~ In any of the foregoing instances is in need of treatment or rehabilitation.
- 11 ~~49. 20.~~ "Willfully" has the meaning provided in section 12.1-02-02.

12 **SECTION 4. AMENDMENT.** Section 27-20-06 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **27-20-06. Powers and duties of ~~juvenile supervisors~~ director of juvenile court.**

- 15 1. For the purpose of carrying out the objectives and purposes of this chapter and  
16 subject to the limitations of this chapter or imposed by the court, a ~~juvenile~~  
17 ~~supervisor~~ director shall:
- 18 a. Make investigations, reports, and recommendations to the juvenile court.
- 19 b. Receive and examine complaints and charges of delinquency; ~~or~~ unruly  
20 conduct; or deprivation of a child for the purpose of considering the  
21 commencement of proceedings under this chapter.
- 22 c. Supervise and assist a child placed on probation ~~or in the juvenile~~  
23 ~~supervisor's protection, supervision, or care by order of the court or other~~  
24 ~~authority of law~~ for delinquency or unruly conduct, or both.
- 25 d. Make appropriate referrals to other private or public agencies of the  
26 community if their assistance appears to be needed or desirable.
- 27 ~~Take into custody and detain~~ Issue a temporary custody order concerning a  
28 ~~child who is under the juvenile supervisor's~~ referred to the director's  
29 ~~supervision or care as a delinquent, unruly, or deprived child if the juvenile~~  
30 ~~supervisor has reasonable cause to believe that the child's health or safety is~~  
31 ~~in imminent danger, or that the child may abscond or be removed from the~~

- 1                   ~~jurisdiction of the court, or when ordered by the court pursuant to this chapter.~~
- 2                   Except as provided by this chapter, a ~~juvenile supervisor~~ director does not
- 3                   have the powers of a law enforcement officer. ~~The juvenile supervisor may~~
- 4                   ~~not conduct accusatory proceedings under this chapter against a child who is~~
- 5                   ~~or may be under the juvenile supervisor's care or supervision.~~
- 6                   f. Administer oaths.
- 7                   g. Take acknowledgments of instruments for the purpose of this chapter.
- 8                   h. Make such temporary order not to exceed ninety-six hours for the custody
- 9                   and control of a child alleged to be deprived as may be deemed appropriate.
- 10                  The order must be reduced to writing within twenty-four hours, excluding
- 11                  holidays and weekends.
- 12                  i. Perform all other functions designated by this chapter or under section
- 13                  27-05-30 or by order of the court pursuant thereto, including, if qualified,
- 14                  those of a referee.
- 15                  j. ~~Perform such functions relating to domestic relations matters as directed by~~
- 16                  ~~the juvenile supervisor's appointing district judge, acting in accordance with~~
- 17                  ~~section 27-05-29.~~ Issue an order to a law enforcement authority to transport
- 18                  a child to and from a specified location.
- 19                  2. Any of the foregoing functions may be performed in another state if authorized by
- 20                  the court of this state and permitted by the laws of the other state.

21                  **SECTION 5. AMENDMENT.** Subsection 1 of section 27-20-10 of the North Dakota

22                  Century Code is amended and reenacted as follows:

- 23                  1. Before a petition is filed, the director of juvenile supervisor court or other officer of
- 24                  the court designated by it, subject to its direction, may give counsel and advice to
- 25                  the parties and impose conditions for the conduct and control of the child with a
- 26                  view to an informal adjustment if it appears:
- 27                  a. The admitted facts bring the case within the jurisdiction of the court;
- 28                  b. Counsel, advice, and conditions, if any, for the conduct and control of the
- 29                  child without an adjudication would be in the best interest of the public and
- 30                  the child; and

- 1           c. The child and the child's parents, guardian, or other custodian consent thereto  
2           with knowledge that consent is not obligatory.

3           **SECTION 6. AMENDMENT.** Section 27-20-12 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **27-20-12. Transfer to another juvenile court within the state.**

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

16          **SECTION 7. AMENDMENT.** Section 27-20-13 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18          **27-20-13. Taking into custody.**

- 19          1. A child may be taken into custody:  
20           a. Pursuant to an order of the court under this chapter;  
21           b. Pursuant to the laws of arrest;  
22           c. By a law enforcement officer ~~or a juvenile supervisor~~ if there are reasonable  
23           grounds to believe:  
24           (1) That the child is suffering from illness or injury or is in immediate  
25           danger from the child's surroundings, and that the child's removal is  
26           necessary; or  
27           (2) That the child has run away from the child's parents, guardian, or other  
28           custodian; or  
29           d. By order of the ~~juvenile supervisor~~ director made pursuant to subdivision h of  
30           subsection 1 of section 27-20-06.

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

4           3.    A law enforcement officer may transport a child to and from detention.

5           **SECTION 8. AMENDMENT.** Section 27-20-14 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7           **27-20-14. Detention of child - Juvenile drug court exception.**

8           1.    A child taken into custody may not be detained or placed in shelter care prior to the  
9                   hearing on the petition unless the child's detention or care is required to protect the  
10                  person or property of others or of the child or because the child may abscond or be  
11                  removed from the jurisdiction of the court or because the child has no parent,  
12                  guardian, or custodian or other person able to provide supervision and care for the  
13                  child and return the child to the court when required, or an order for the child's  
14                  detention or shelter care has been made by the court pursuant to this chapter.

15          2.    If a child is participating in a juvenile drug court program, the drug court may order  
16                  the child detained. The child may be detained twice during the child's participation  
17                  in the program but the total period of detention under this subsection may not  
18                  exceed four days in a one-year period.

19          **SECTION 9. AMENDMENT.** Section 27-20-15 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21          **27-20-15. Release or delivery to court.**

22          1.    A person taking a child into custody, with all reasonable speed and without first  
23                  taking the child elsewhere, shall:

24              a.    Release the child to the child's parent, guardian, custodian, or other  
25                   responsible adult able and willing to assume custody of the child, upon that  
26                   individual's promise to bring the child before the court when requested by the  
27                   court, unless the child's detention or shelter care is warranted or required  
28                   under section 27-20-14; or

29              b.    Bring the child before the court or deliver the child to a detention or shelter  
30                   care facility designated by the court or to a medical facility if the child is  
31                   believed to suffer from a serious physical condition or illness which requires

1                    prompt treatment. The person taking the child into custody shall promptly  
2                    give ~~written~~ notice thereof, together with a statement of the reason for taking  
3                    the child into custody, to a parent, guardian, or other custodian and to the  
4                    court. Any temporary detention or questioning of the child necessary to  
5                    comply with this subsection must conform to the procedures and conditions  
6                    prescribed by this chapter and rules of court.

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

10                    3. If a child is ordered detained by a juvenile drug court, notice under this section is  
11                    not required.

12                    **SECTION 10. AMENDMENT.** Section 27-20-17 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14                    **27-20-17. Release from detention or shelter care - Hearing - Conditions of**  
15 **release.**

16                    1. If a child is brought before the court or delivered to a detention or shelter care  
17                    facility designated by the court, the ~~juvenile supervisor~~ director, the intake officer,  
18                    or other authorized officer of the court shall immediately make an investigation and  
19                    release the child unless it appears that the child's detention or shelter care is  
20                    warranted or required under section 27-20-14.

21                    2. If the child is not released, a judge or referee shall hold a detention or shelter care  
22                    hearing promptly and not later than ninety-six hours after the child is placed in  
23                    detention or shelter care to determine whether there is probable cause to believe  
24                    the child has committed the delinquent or unruly acts alleged, or the child is  
25                    deprived and whether the child's detention or shelter care is required under section  
26                    27-20-14. A hearing is not required if the child has been ordered detained by a  
27                    juvenile drug court. Reasonable notice ~~thereof~~, either oral or written, stating the  
28                    time, place, and purpose of the detention or shelter care hearing must be given to  
29                    the child and, if they can be found, to the child's parents, guardian, or other  
30                    custodian. Prior to the commencement of the hearing, the court shall inform the  
31                    parties of their right to counsel and to appointed counsel if they are needy persons,

- 1 and of the child's right to remain silent with respect to any allegations of  
2 delinquency or unruly conduct.
- 3 3. If continued shelter care is required, the judge or referee may order that the child  
4 be kept in shelter care for no more than sixty days from the date of the shelter care  
5 hearing.
- 6 4. As a condition to the child's release from shelter care, the court may order a  
7 parent, guardian, custodian, or any other member of the household in which the  
8 child resides to vacate the child's residence if probable cause exists to believe that  
9 the parent, guardian, custodian, or other member of the household has committed  
10 a sexual offense with or against the child, pursuant to sections 12.1-20-03 through  
11 12.1-20-07 or section 12.1-20-11, and the presence of the alleged sexual offender  
12 in the child's residence presents a danger to the child's life or physical, emotional,  
13 or mental health. The court may order that the parent, guardian, or custodian not  
14 allow contact with an identified person if the court determines the order is in the  
15 best interests of the child.
- 16 5. If the child is not released and a parent, guardian, or custodian has not been  
17 notified of the hearing, did not appear or waive appearance at the hearing, and  
18 files an affidavit showing these facts, the court shall rehear the matter without  
19 unnecessary delay and order the child's release, unless it appears from the  
20 hearing that the child's detention or shelter care is required under section  
21 27-20-14.

22 **SECTION 11. AMENDMENT.** Section 27-20-19 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **27-20-19. Petition - Preliminary determination.** A petition alleging delinquency or  
25 unruliness under this chapter ~~may not be filed unless~~ must be reviewed by the juvenile  
26 supervisor director, the court, or other person authorized by the court ~~has determined and~~  
27 ~~endorsed upon the petition that~~ to determine whether the filing of the petition is in the best  
28 interest of the public and the child.

29 **SECTION 12. AMENDMENT.** Section 27-20-20 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1           **27-20-20. Petition - Who may ~~make~~ prepare and file - Review.** ~~Subject to section~~  
2 ~~27-20-19 the~~ A petition may be ~~made~~ prepared and filed by the state's attorney. A petition may  
3 also be prepared by any other person, including a law enforcement officer, who has knowledge  
4 of the facts alleged or is informed and believes that they are true. A petition prepared by any  
5 person other than a state's attorney may not be filed unless the director, the court, or other  
6 person authorized by the court has determined the filing of the petition is in the best interest of  
7 the public and the child.

8           **SECTION 13. AMENDMENT.** Section 27-20-24 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10           **27-20-24. Conduct of hearings.**

- 11           1. Hearings under this chapter must be conducted by the court without a jury, in an  
12           informal but orderly manner, and separately from other proceedings not included in  
13           section 27-20-03.
- 14           2. If the hearing has not been held within the time limit, or any extension thereof,  
15           required by subsection 1 of section 27-20-22, the petition must be dismissed.
- 16           3. The state's attorney upon request of the court shall present the evidence in support  
17           of any allegations of the petition not admitted and otherwise conduct the  
18           proceedings on behalf of the state.
- 19           4. ~~The~~ Except for informal adjustments under section 27-20-10, the proceedings  
20           must be recorded by stenographic notes or by electronic, mechanical, or other  
21           appropriate means.
- 22           5. Hearings are open to the public if the purpose of the hearing is to declare a person  
23           in contempt of court or to consider a petition alleging an offense identified under  
24           subdivision b of subsection 1 of section 27-20-34 or subsection 2 of section  
25           27-20-34. The general public must be excluded from other hearings under this  
26           chapter. In hearings from which the general public is excluded, only the parties,  
27           their counsel, witnesses, victims, ~~and other persons accompanying a party for that~~  
28           ~~person's assistance,~~ and any other persons as the court finds have a proper  
29           interest in the proceedings ~~or in the work of the court~~ may be admitted by the  
30           court. The court may temporarily exclude the child or other person from the  
31           hearing ~~except while allegations of that child's delinquency or unruly conduct are~~

1           ~~being heard~~ if, after being warned by the court that disruptive conduct will cause  
2           removal from the courtroom, the child or other person persists in conduct that  
3           justifies removal from the courtroom.

4           **SECTION 14. AMENDMENT.** Section 27-20-26 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **27-20-26. Right to counsel - Exceptions.**

- 7           1. Except as otherwise provided ~~under~~ in this chapter section, a party who is indigent  
8           and unable to employ legal counsel is entitled to ~~representation by legal counsel at~~  
9           public expense at custodial, post-petition, and informal adjustment stages of  
10           proceedings under this chapter ~~and, if as a needy person the party is unable to~~  
11           ~~employ counsel, to have the court provide counsel for the party.~~ During the  
12           informal adjustment stage of a proceeding only the child, if determined to be  
13           indigent, is entitled to counsel at public expense. In proceedings regarding  
14           allegations of unruliness or delinquency, a child's parent, legal guardian, or  
15           custodian, if determined to be indigent, is entitled to counsel at public expense only  
16           during the dispositional stage of the proceedings. If a party appears without  
17           counsel the court shall ascertain whether the party knows ~~of the party's right to the~~  
18           party may be represented by counsel and to be provided with that the party is  
19           entitled to counsel by the court if the party is a needy person at public expense if  
20           indigent. The court may continue the proceeding to enable a party to obtain  
21           counsel and ~~shall provide, subject to this section,~~ counsel must be provided for an  
22           unrepresented ~~needy person~~ indigent party upon the ~~person's~~ party's request.  
23           Counsel must be provided for a child not represented by the child's parent,  
24           guardian, or custodian at custodial, post-petition, and informal adjustment stages  
25           of proceedings under this chapter. If the interests of two or more parties conflict,  
26           separate counsel must be provided for each of them.
- 27           2. ~~A needy person~~ An indigent party is one who at the time of requesting counsel is  
28           unable, without undue financial hardship, to provide for full payment of legal  
29           counsel and all other necessary expenses for representation. A child is not to be  
30           considered ~~needy~~ indigent under this section if the child's ~~parents or~~ parent can,  
31           without undue financial hardship, provide full payment for legal counsel and other

1 expenses of representation. Any parent entitled to the custody of a child involved  
2 in a proceeding under this chapter is, unless undue financial hardship would  
3 ensue, responsible for providing legal counsel and for paying other necessary  
4 expenses of representation for the parent's child. The court may enforce  
5 performance of this duty by appropriate order. ~~As used in this subsection, the~~  
6 ~~word "parent" includes adoptive parents.~~

7 **SECTION 15. AMENDMENT.** Section 27-20-28 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **27-20-28. Investigation and report.**

- 10 1. If the allegations of a petition are admitted by a party or notice of a hearing under  
11 section 27-20-34 has been given, the court, prior to the hearing on need for  
12 treatment or rehabilitation and disposition, may direct that a social study and report  
13 in writing to the court be made by the ~~juvenile supervisor~~ director or other person  
14 designated by the court, concerning the child, the child's family and environment,  
15 and other matters relevant to disposition of the case. If the allegations of the  
16 petition are not admitted and notice of a hearing under section 27-20-34 has not  
17 been given, the court may not direct the making of the study and report until after  
18 the court has heard the petition upon notice of hearing given pursuant to this  
19 chapter and the court has found that the child committed a delinquent act or is an  
20 unruly or deprived child.
- 21 2. During the pendency of any proceeding the court ~~may~~:
- 22 a. May order the child to be examined at a suitable place by a physician,  
23 psychologist, or certified addiction counselor ~~and may also~~;
- 24 b. May order the child tested by appropriate forensic methods to determine  
25 whether the child has been exposed to a controlled substance or other  
26 substance considered injurious to the child's health; or
- 27 c. May order medical or surgical treatment of a child who is suffering from a  
28 serious physical condition or illness, or alcohol or drug abuse, which in the  
29 opinion of a licensed physician requires prompt treatment, even if the parent,  
30 guardian, or other custodian has not been given notice of a hearing, is not

1 available, or without good cause informs the court of that person's refusal to  
2 consent to the treatment.

3 **SECTION 16. AMENDMENT.** Section 27-20-30 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **27-20-30. Disposition of deprived child.**

6 1. If the child is found to be a deprived child, the court may make any of the following  
7 orders of disposition best suited to the protection and physical, mental, and moral  
8 welfare of the child:

9 a. Permit the child to ~~remain~~ reside with the child's parents, guardian, or other  
10 custodian, subject to conditions and limitations as the court prescribes,  
11 including supervision as directed by the court for the protection of the child.

12 b. Subject to conditions and limitations as the court prescribes, transfer  
13 temporary legal custody to any of the following:

14 (1) ~~Any individual who, after study by the juvenile supervisor or other~~  
15 ~~person or agency designated by the court, is found by the court to be~~  
16 ~~qualified to receive and care for the child.~~

17 (2) An agency or other private organization licensed or otherwise  
18 authorized by law to receive and provide care for the child.

19 (3) (2) The director of the county social service board or other public agency  
20 authorized by law to receive and provide care for the child.

21 (4) ~~An individual in another state with or without supervision by an~~  
22 ~~appropriate officer under section 27-20-40.~~

23 c. Without making any of the orders otherwise provided in this section, transfer  
24 custody of the child to the juvenile court of another state if authorized by and  
25 in accordance with section 27-20-39 if the child is or is about to become a  
26 resident of that state.

27 d. Require the parents, guardian, or other custodian to participate in treatment.

28 e. Appoint a fit and willing relative or other appropriate individual as the child's  
29 legal guardian.

30 f. In cases in which a compelling reason has been shown that it would not be in  
31 the child's best interests to return home, to have parental rights terminated, to

1                   be placed for adoption, to be placed with a fit and willing relative, or to be  
2                   placed with a legal guardian, establish, by order, some other planned  
3                   permanent living arrangement.

4           2.   Unless a child found to be deprived is found also to be delinquent or unruly and not  
5           amenable to treatment, the child may not be committed to or confined in an  
6           institution or other facility designed or operated for the benefit of delinquent  
7           children.

8           **SECTION 17. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is  
9   amended and reenacted as follows:

10           **27-20-31. Disposition of delinquent child.** If the child is found to be a delinquent  
11   child, the court may make any of the following orders of disposition best suited to the child's  
12   treatment, rehabilitation, and welfare:

- 13           1.   Any order authorized by section 27-20-30 for the disposition of a deprived child;
- 14           2.   Placing the child on probation under the supervision of the ~~juvenile supervisor~~  
15           director, probation officer, or other appropriate officer of the court or of the court of  
16           another state as provided in section 27-20-41 or the director of the county social  
17           service board under conditions and limitations the court prescribes;
- 18           3.   Ordering the child to pay a fine if the delinquent act committed by the child  
19           constitutes manslaughter resulting from the operation of a motor vehicle in  
20           violation of section 12.1-16-02; negligent homicide in violation of section  
21           12.1-16-03; or driving or being in actual physical control of a vehicle in violation of  
22           section 39-08-01, or an equivalent ordinance. The court may suspend the  
23           imposition of a fine imposed pursuant to this subsection upon such terms and  
24           conditions as the court may determine. Fines collected pursuant to this subsection  
25           must be paid into the county treasury for disposition pursuant to section  
26           29-27-02.1;
- 27           4.   ~~Placing the child in an institution, camp, or other facility for delinquent children~~  
28           ~~operated under the direction of the court or other local public authority;~~
- 29           5.   Committing the child to the division of juvenile services or to another state  
30           department to which commitment of delinquent or unruly children may be made.

- 1           When necessary, the commitment order may provide that the child initially be  
2           placed in a secure facility;
- 3       ~~6-~~ 5.   Ordering the child to make monetary restitution to the victim of the offense or to  
4           complete a specified number of hours of community service as determined by the  
5           court, or both;
- 6       ~~7-~~ 6.   Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules  
7           or policies adopted by the supreme court; or
- 8       ~~8-~~ 7.   ~~Under section 27-20-31.1, order the driver's license or permit of the child to be~~  
9           ~~delivered to the juvenile supervisor, probation officer, or other appropriate officer of~~  
10          ~~the court and to inform the director of the department of transportation of the child's~~  
11          ~~suspension of driving privileges and the duration of the suspension of privileges.~~  
12          Ordering the child's participation in a juvenile drug court program.

13           **SECTION 18. AMENDMENT.** Section 27-20-32.1 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **27-20-32.1. Court order required for removal of child.** An order of disposition or  
16 other adjudication in a proceeding under this chapter, in those cases in which a child is  
17 removed from the home of a ~~relative by birth, marriage, or adoption~~ parent, custodian, or  
18 guardian for the reason that continuation in such home would be contrary to the welfare of such  
19 child, must specifically state that a continuation of the child in the home of the ~~relative~~ parent,  
20 custodian, or guardian would be contrary to the welfare of the child.

21           **SECTION 19.** Section 27-20-32.3 of the North Dakota Century Code is created and  
22 enacted as follows:

23           **27-20-32.3. Definitions - Active efforts - When required.** When an agency is  
24 seeking to effect a foster care placement of, or termination of parental rights to an Indian child,  
25 the court shall require active efforts as set forth in 25 U.S.C. section 1912(d).

26           **SECTION 20. AMENDMENT.** Subsection 4 of section 27-20-34 of the North Dakota  
27 Century Code is amended and reenacted as follows:

28           4.   ~~The transfer terminates the jurisdiction of the juvenile court over the child with~~  
29           ~~respect to the delinquent acts alleged in the petition. In addition, any~~ Any transfer  
30           ~~under subdivision b or c of subsection 4~~ operates to terminate the juvenile court's

1 jurisdiction over the child with respect to any future offense if the child is ultimately  
2 convicted of the offense giving rise to the transfer.

3 **SECTION 21. AMENDMENT.** Subsections 2 and 3 of section 27-20-36 of the North  
4 Dakota Century Code are amended and reenacted as follows:

5 2. An order of disposition committing a delinquent or unruly child to the division of  
6 juvenile services continues in force for not more than ~~two years~~ twelve months,  
7 excluding any period of time the child is on parole from an institution, or until the  
8 child is sooner discharged by an institution.

9 a. The court which made the order may extend its duration for additional  
10 ~~two-year~~ twelve-month periods subject to like discharge, if:

11 (1) A hearing is held upon motion of the division, or on the court's own  
12 motion, prior to the expiration of the order;

13 (2) Reasonable notice of the hearing and an opportunity to be heard are  
14 given to the child and the parent, guardian, or other custodian; and

15 (3) The court finds that the extension is necessary for the treatment or  
16 rehabilitation of the child.

17 b. A permanency hearing must be conducted within thirty days after a court  
18 determines that aggravated circumstances of the type described in  
19 subdivisions a, c, d, or e of subsection 3 of section 27-20-02 exist, or within  
20 twelve months after a child, subject to an order of disposition under this  
21 subsection, is considered to have entered foster care, or is continued in foster  
22 care following a previous permanency hearing. The permanency hearing  
23 may be conducted:

24 (1) By the division of juvenile services as a placement hearing under  
25 chapter 27-21; or

26 (2) By the court, if the court requires, or if it appears that an appropriate  
27 permanency plan could not be carried out without exceeding the  
28 authority of the division of juvenile services.

29 3. Except as provided in subsection 2, an order of disposition pursuant to which a  
30 child is placed in foster care may not continue in force for more than twelve months  
31 after the child is considered to have entered foster care. Before the extension of

1 any court order limited under this subsection, a permanency hearing must be  
2 conducted. Any other order of disposition may not continue in force for more than  
3 ~~two years~~ twelve months.

4 **SECTION 22. AMENDMENT.** Subsection 3 of section 27-20-37 of the North Dakota  
5 Century Code is amended and reenacted as follows:

6 3. Any party to the proceeding, the director of juvenile supervisor court or other  
7 person having supervision or legal custody of or an interest in the child may  
8 petition the court for the relief provided in this section. The petition must set forth  
9 in concise language the grounds upon which the relief is requested.

10 **SECTION 23. AMENDMENT.** Subsection 1 of section 27-20-40 of the North Dakota  
11 Century Code is amended and reenacted as follows:

12 1. If a juvenile court of another state which has adopted the Uniform Juvenile Court  
13 Act, or a substantially similar Act which includes provisions corresponding to  
14 sections 27-20-39 and 27-20-40, requests a juvenile court of this state to accept  
15 jurisdiction of a child found by the requesting court to have committed a delinquent  
16 act or to be an unruly or deprived child, and the court of this state finds, after  
17 investigation that the child is, or is about to become, a resident of the county in  
18 which the court presides, it shall promptly and not later than fourteen days after  
19 receiving the request issue its acceptance in writing to the requesting court and  
20 direct its director of juvenile supervisor court or other person designated by it to  
21 take physical custody of the child from the requesting court and bring the child  
22 before the court of this state or make other appropriate provisions for the child's  
23 appearance before the court.

24 **SECTION 24. AMENDMENT.** Subsection 1 of section 27-20-42 of the North Dakota  
25 Century Code is amended and reenacted as follows:

26 1. Upon receiving a request of a juvenile court of another state which has adopted  
27 the Uniform Juvenile Court Act, or a substantially similar Act which includes  
28 provisions corresponding to sections 27-20-41 and 27-20-42 to provide supervision  
29 of a child under the jurisdiction of that court, a court of this state may issue its  
30 written acceptance to the requesting court and designate its director of juvenile

1            ~~supervisor~~ court, probation officer, or other appropriate officer who is to provide  
2            supervision, stating the probable cost per day therefor.

3            **SECTION 25. AMENDMENT.** Section 27-20-44 of the North Dakota Century Code is  
4            amended and reenacted as follows:

5            **27-20-44. Termination of parental rights.**

6            1. The court by order may terminate the parental rights of a parent with respect to the  
7            parent's child if:

8            a. The parent has abandoned the child;

9            b. The child is subjected to aggravated circumstances as defined under  
10            subsection 3 of section 27-20-02;

11            c. The child is a deprived child and the court finds:

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

16            (2) The child has been in foster care, in the care, custody, and control of  
17            the department, or a county social service board, or, in cases arising  
18            out of an adjudication by the juvenile court that a child is an unruly  
19            child, the division of juvenile services, for at least four hundred fifty out  
20            of the previous six hundred sixty nights; or

21            ~~(3) A court of competent jurisdiction has convicted the child's parent of one~~  
22            ~~of the following crimes, or of an offense under the laws of another~~  
23            ~~jurisdiction which requires proof of substantially similar elements:~~

24            ~~(a) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in~~  
25            ~~which the victim is another child of the parent;~~

26            ~~(b) Aiding, abetting, attempting, conspiring, or soliciting a violation of~~  
27            ~~section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim~~  
28            ~~is a child of the parent; or~~

29            ~~(c) A violation of section 12.1-17-02 in which the victim is a child of~~  
30            ~~the parent and has suffered serious bodily injury; or~~

1 e. d. The written consent of the parent acknowledged before the court has been  
2 given.

3 2. If the court does not make an order of termination of parental rights, it may grant  
4 an order under section 27-20-30 if the court finds from clear and convincing  
5 evidence that the child is a deprived child.

6 **SECTION 26. AMENDMENT.** Subsection 2 of section 27-20-45 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 2. If both of the natural parents of the child are not named in the petition either as  
9 petitioner or as respondent, the court shall cause inquiry to be made of the  
10 petitioner and other appropriate persons in an effort to identify an unnamed parent.  
11 The inquiry must include, to the extent necessary and appropriate, all of the  
12 following:

- 13 a. Whether any man is presumed to be the father of the child under ~~the Uniform~~  
14 ~~Parentage Act~~ chapter 14-20.
- 15 b. Whether the natural mother of the child was cohabiting with a man at the time  
16 of conception or birth of the child.
- 17 c. Whether the natural mother of the child has received from any man support  
18 payments or promises of support with respect to the child or in connection  
19 with her pregnancy.
- 20 d. Whether any person has formally or informally acknowledged or declared that  
21 person's possible parentage of the child.
- 22 e. Whether any person claims any right to custody of the child.

23 **SECTION 27. AMENDMENT.** Section 27-20-48 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **27-20-48. Guardian ad litem.** The court at any stage of a proceeding under this  
26 chapter, on application of a party or on its own motion, shall appoint a lay guardian ad litem for  
27 a child who is a party to the proceeding if the child has no parent, guardian, or custodian  
28 appearing on the child's behalf or their interests conflict with the child's or in any other case in  
29 which the interests of the child require a guardian. A party to the proceeding or that party's  
30 employee or representative may not be appointed.

1           **SECTION 28. AMENDMENT.** Section 27-20-48.1 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **27-20-48.1. Appointment of legal guardian.**

- 4           ~~1. In a proceeding under chapter 30-1-27, the The court may:~~  
5           ~~a. Without terminating parental rights, appoint a fit and willing relative or other~~  
6           ~~appropriate individual as the child's legal guardian if the court has determined~~  
7           ~~that a lawful basis exists for terminating parental rights, but the child is~~  
8           ~~unlikely to be placed for adoption; or~~  
9           ~~b. Appoint a fit and willing relative or other appropriate individual as the child's~~  
10           ~~legal guardian if the child has not been placed for adoption within twelve~~  
11           ~~months after a termination of all parental rights.~~  
12           ~~2. An individual appointed as a legal guardian has:~~  
13           ~~a. If there is a parent with remaining parental rights, the rights of a legal~~  
14           ~~custodian; and~~  
15           ~~b. If there is no parent with remaining parental rights, the rights of a legal~~  
16           ~~custodian and the authority to consent to the child's adoption, marriage,~~  
17           ~~enlistment in the armed forces of the United States, and surgical and other~~  
18           ~~medical treatment establish a guardianship as a dispositional alternative if a~~  
19           ~~child has been adjudicated as deprived, unruly, or delinquent.~~

20           **SECTION 29.** Section 27-20-48.2 of the North Dakota Century Code is created and  
21 enacted as follows:

22           **27-20-48.2. Powers and duties of guardian of child.** A guardian of a child has the  
23 powers and responsibilities of a legal custodian if there is a parent with remaining parental  
24 rights. If there is no parent with remaining parental rights, the guardian has the rights of a legal  
25 custodian and the authority to consent to the child's adoption, marriage, enlistment in the armed  
26 forces of the United States, and surgical and other medical treatment. A guardian is not liable  
27 to third persons by reason of the parental relationship for acts of the child. In particular, and  
28 without qualifying the foregoing, a guardian has the following powers and duties:

- 29           ~~1. The guardian must take reasonable care of the child's personal effects and~~  
30           ~~commence protective proceedings if necessary to protect other property of the~~  
31           ~~child.~~

- 1           2.   The guardian may receive money payable for the support of the ward to the child's  
2                   parent, guardian, or custodian under the terms of any statutory benefit or  
3                   insurance system, or any private contract, devise, trust, conservatorship, or  
4                   custodianship. The guardian also may receive money or property of the child paid  
5                   or delivered by virtue of section 30.1-26-03. Any sums so received must be  
6                   applied to the child's current needs for support, care, and education. The guardian  
7                   must exercise due care to conserve any excess for the child's future needs unless  
8                   a conservator has been appointed for the estate of the child, in which case excess  
9                   must be paid over at least annually to the conservator. Sums so received by the  
10                  guardian are not to be used for compensation for the guardian's services except as  
11                  approved by order of court or as determined by a duly appointed conservator other  
12                  than the guardian. A guardian may institute proceedings to compel the  
13                  performance by any person of a duty to support the child or to pay sums for the  
14                  welfare of the child.
- 15           3.   The guardian is empowered to facilitate the child's education, social, or other  
16                  activities and to authorize medical or other professional care, treatment, or advice.  
17                  A guardian is not liable by reason of this consent for injury to the child resulting  
18                  from the negligence or acts of third persons unless it would have been illegal for a  
19                  parent to have consented. A guardian may consent to the marriage or adoption of  
20                  the child.
- 21           4.   A guardian shall file an annual report with the court informing the court of the  
22                  status or condition of the child and provide a copy of the report to the child. The  
23                  report must include changes that have occurred since the previous reporting  
24                  period and an accounting of the child's estate. The guardian shall report whether  
25                  the child has resided in an institution, whether the child continues to require  
26                  guardianship, and whether any powers of the guardian should be increased or  
27                  limited. The filing of a report and its acceptance by the court or clerk of district  
28                  court does not constitute an adjudication or a determination of the merits of the  
29                  report nor does the filing of the report constitute the court's approval of the report.  
30                  The office of state court administrator shall provide printed forms that may be used  
31                  to fulfill reporting requirements.

1           **SECTION 30.** Section 27-20-48.3 of the North Dakota Century Code is created and  
2 enacted as follows:

3           **27-20-48.3. Termination of appointment of guardian - General.** A guardian's  
4 authority and responsibility terminates upon the death, resignation, or removal of the guardian,  
5 or upon the child's death, adoption, marriage, or attainment of majority, but termination does  
6 not affect the guardian's liability for prior acts nor the guardian's obligation to account for funds  
7 and assets of the child.

8           **SECTION 31.** Section 27-20-48.4 of the North Dakota Century Code is created and  
9 enacted as follows:

10          **27-20-48.4. Resignation or removal proceedings.**

- 11          1. A guardian may petition for permission to resign. A petition for permission to  
12 resign may include a request for appointment of a successor guardian.  
13 Resignation of a guardian does not terminate the guardianship until it has been  
14 approved by the court.
- 15          2. Any party to the proceeding in which the child's status was adjudicated, the  
16 director, or the child, if fourteen or more years of age, may petition for removal of a  
17 guardian on the grounds that the removal would be in the best interest of the child.  
18 A petition for removal may include a request for appointment of a successor  
19 guardian.
- 20          3. After notice and hearing on a petition for removal or for permission to resign, the  
21 court may terminate the guardianship and make any further order that may be  
22 appropriate.
- 23          4. If, at any time in the proceeding, the court determines that the interests of the child  
24 are, or may be, inadequately represented, it may appoint an attorney to represent  
25 the child, giving consideration to the preference of the child if the child is fourteen  
26 or more years of age.

27          **SECTION 32. AMENDMENT.** Section 27-20-50 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29          **27-20-50. Protective order.** ~~On~~ At any stage of the proceedings, upon application of a  
30 party or on the court's own motion, the court may make an order restraining or otherwise  
31 controlling the conduct of a person if:

- 1           1. ~~An order of disposition of a delinquent, unruly, or deprived child has been or is~~  
2           ~~about to be made in a proceeding under this chapter;~~
- 3           ~~2.~~ The court finds that the conduct:
  - 4           a. Is or may be detrimental or harmful to the child; ~~and or~~
  - 5           b. Will tend to defeat the execution of ~~the~~ an order of disposition; and
- 6           ~~3.~~ 2. Due notice of the application or motion and the grounds therefor and an  
7           opportunity to be heard ~~thereon~~ have been given to the person against whom the  
8           order is directed.

9           **SECTION 33. AMENDMENT.** Section 27-20-54 of the North Dakota Century Code is  
10          amended and reenacted as follows:

11           **27-20-54. Destruction of juvenile court records.**

- 12           1. ~~All~~ Except as otherwise required under section 25-03.3-04, all juvenile court  
13           records must be ~~maintained~~ retained and disposed of pursuant to rules and  
14           ~~procedures~~ policies established by the North Dakota supreme court.
- 15           2. Upon the final destruction of a file or record, the proceeding must be treated as if it  
16           never occurred. The juvenile court shall notify each agency named in the file or  
17           record of the destruction. All index references, except those which may be made  
18           by the director of the department of transportation, must be deleted, ~~and upon.~~  
19           Each agency, except the director of the department of transportation, upon  
20           notification of the destruction of a file or record, shall destroy all files, records, and  
21           references to the child's apprehension, detention, and referral to the juvenile court  
22           and any record of disposition made by the juvenile court. Upon inquiry in any  
23           matter the child, the court, ~~law enforcement officers,~~ and representatives of  
24           agencies, except the director of the department of transportation, shall properly  
25           reply that no record exists with respect to the child. ~~The juvenile court shall notify~~  
26           ~~each agency or official therein named.~~ Each law enforcement agency and law  
27           enforcement officer except the director of the department of transportation, upon  
28           receipt of a copy of the order, shall destroy all files, records, and references to the  
29           child pertaining to the child's apprehension, detention, and referral to the juvenile  
30           court and any record of disposition made by the juvenile court.

1           **SECTION 34. AMENDMENT.** Section 27-20-59 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **27-20-59. Short title.** This chapter may be cited as the ~~Uniform~~ Juvenile Court Act.

4           **SECTION 35. AMENDMENT.** Section 54-12-01.3 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **54-12-01.3. Judicial officers - Legal defense - Indemnification.** The attorney  
7 general shall appear and defend any supreme court justice, supreme court surrogate justice,  
8 district court judge, district court surrogate judge, judicial referee, or director of juvenile  
9 ~~supervisor court~~ of this state in any action founded upon an act or omission arising out of  
10 performance of an official duty. If the attorney general determines that the attorney general or  
11 an assistant attorney general is unable to defend the judicial officer, the attorney general shall  
12 employ a special assistant attorney general to represent the judicial officer. The state shall  
13 indemnify the supreme court justice, supreme court surrogate justice, district court judge,  
14 district court surrogate judge, judicial referee, or director of juvenile supervisor court of this  
15 state for all reasonable costs, including attorney's fees, incurred by or awarded against the  
16 judicial officer in the action.

17           **SECTION 36. REPEAL.** Sections 27-05-29, 27-20-01, and 27-20-35 of the North  
18 Dakota Century Code are repealed.

19           **SECTION 37. LEGISLATIVE COUNCIL STUDY - INDIAN CHILD WELFARE.** During  
20 the 2007-08 interim, the legislative council shall consider studying the application of and the  
21 desirability of changing the law relating to the welfare of Indian children when placed in the care  
22 of individuals other than parents and the effect of the Indian Child Welfare Act on state law.  
23 The legislative council shall report its findings and recommendations, together with any  
24 legislation required to implement the recommendations, to the sixty-first legislative assembly.