

21.0150.02000

Sixty-seventh  
Legislative Assembly  
of North Dakota

**BILL NO.**

Introduced by

Representative Klemin

1 A BILL for an Act to create and enact chapters 27-20.2, 27-20.3, and 27-20.4 of the North  
2 Dakota Century Code, relating to the juvenile court act; to amend and reenact subsection 16 of  
3 section 11-16-01, section 12.1-32-15, subsections 1 and 3 of section 12.1-41-12, subsection 2  
4 of section 14-02.1-03.1, subsection 2 of section 14-02.1-08, subdivision c of subsection 2 of  
5 section 14-07.1-18, section 14-15-11, subsections 1 and 2 of section 15.1-09-33.4, sections  
6 15.1-19-15, 20.1-13.1-01, 20.1-15-01, 26.1-36-20, and 26.1-40-11.1, subsection 2 of section  
7 27-05-30, section 27-20.1-01, paragraph 4 of subdivision n of subsection 2 of section  
8 27-20.1-06, subsection 1 of section 27-20.1-10, subdivision d of subsection 1 of section  
9 27-20.1-11, subsection 3 of section 27-20.1-11, subsection 2 of section 27-20.1-17, section  
10 27-20.1-22, subsections 2 and 3 of section 27-21-02, subsection 3 of section 27-21-02.1,  
11 section 27-21-09, subsections 2 and 5 of section 27-21-12, section 30.1-27-02, subsection 3 of  
12 section 30.1-27-06, section 39-06-32.1, subsection 2 of section 39-20-01, section 39-24.1-01,  
13 subsection 5 of section 50-06-05.1, subdivision a of subsection 4 of section 50-06-43.2,  
14 subsection 1 of section 50-11.3-01, subsection 4 of section 50-25.1-15, subsection 2 of section  
15 54-12-34, and sections 54-23.4-17 and 62.1-02-01 of the North Dakota Century Code, relating  
16 to juvenile justice; to repeal chapter 27-20 and section 27-21-03 of the North Dakota Century  
17 Code, relating to the uniform juvenile court act; and to provide a penalty.

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

19 **SECTION 1. AMENDMENT.** Subsection 16 of section 11-16-01 of the North Dakota Century  
20 Code is amended and reenacted as follows:

21 16. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters  
22 14-15, ~~27-20.2, 27-20.3, 27-20.4~~, and 50-01 upon consultation with the human  
23 service zone director or the executive director of the department of human services.

1       **SECTION 2. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**  
4 **predators - Registration requirement - Penalty. (Contingent effective date - [See note](#))**

5       1. As used in this section:

- 6           a. "A crime against a child" means a violation of chapter 12.1-16, section  
7           12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
8           subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
9           12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of  
10          section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
11          from another court in the United States, a tribal court, or court of another country,  
12          in which the victim is a minor or is otherwise of the age required for the act to be  
13          a crime or an attempt or conspiracy to commit these offenses.
- 14          b. "Department" means the department of corrections and rehabilitation.
- 15          c. "Homeless" means an individual who is physically present in this state, but is  
16          living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
17          otherwise without a traditional dwelling, and also one who resides in this state but  
18          does not maintain a permanent address. The term does not include individuals  
19          who are temporarily domiciled or individuals residing in public or private shelters  
20          that provide temporary living accommodations.
- 21          d. "Mental abnormality" means a congenital or acquired condition of an individual  
22          that affects the emotional or volitional capacity of the individual in a manner that  
23          predisposes that individual to the commission of criminal sexual acts to a degree  
24          that makes the individual a menace to the health and safety of other individuals.
- 25          e. "Predatory" means an act directed at a stranger or at an individual with whom a  
26          relationship has been established or promoted for the primary purpose of  
27          victimization.
- 28          f. "Sexual offender" means a person who has pled guilty to or been found guilty,  
29          including juvenile delinquent adjudications, of a violation of section 12.1-20-03,  
30          12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,  
31          12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,

1 12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and  
2 subdivision b of subsection 1 if the offense involves only a demand for money,  
3 chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1, subdivision b of  
4 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or  
5 12.1-41-06, or an equivalent offense from another court in the United States, a  
6 tribal court, or court of another country, or an attempt or conspiracy to commit  
7 these offenses.

8 g. "Sexually dangerous individual" means an individual who meets the definition  
9 specified in section 25-03.3-01.

10 h. "Temporarily domiciled" means staying or being physically present in this state for  
11 more than thirty days in a calendar year or at a location for longer than ten  
12 consecutive days, attending school for longer than ten days, or maintaining  
13 employment in the jurisdiction for longer than ten days, regardless of the state of  
14 the residence.

15 2. The court shall impose, in addition to any penalty provided by law, a requirement that  
16 the individual register, within three days of coming into a county in which the individual  
17 resides, is homeless, or within the period identified in this section that the individual  
18 becomes temporarily domiciled. The individual must register with the chief of police of  
19 the city or the sheriff of the county if the individual resides, attends school, or is  
20 employed in an area other than a city. A homeless individual shall register every three  
21 days with the sheriff or chief of police of the jurisdiction in which the individual is  
22 physically present. The court shall require an individual to register by stating this  
23 requirement on the court records, if that individual:

24 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual  
25 offender or an attempted felonious sexual offender, including juvenile delinquent  
26 adjudications of equivalent offenses unless the offense is listed in subdivision c.

27 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
28 for, a misdemeanor or attempted misdemeanor. The court may deviate from  
29 requiring an individual to register if the court first finds the individual is no more  
30 than three years older than the victim if the victim is a minor, the individual has  
31 not previously been convicted as a sexual offender or of a crime against a child,

- 1                   and the individual did not exhibit mental abnormality or predatory conduct in the  
2                   commission of the offense.
- 3                   c. Is a juvenile found delinquent under subdivision d of subsection 1 of section  
4                   12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual  
5                   offender for a misdemeanor. The court may deviate from requiring the juvenile to  
6                   register if the court first finds the juvenile has not previously been convicted as a  
7                   sexual offender or for a crime against a child, and the juvenile did not exhibit  
8                   mental abnormality or predatory conduct in the commission of the offense.
- 9                   d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
10                  child or an attempted crime against a child, including juvenile delinquent  
11                  adjudications of equivalent offenses. Except if the offense is described in section  
12                  12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent  
13                  of the victim, the court may deviate from requiring an individual to register if the  
14                  court first finds the individual has not previously been convicted as a sexual  
15                  offender or for a crime against a child, and the individual did not exhibit mental  
16                  abnormality or predatory conduct in the commission of the offense.
- 17                  e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated  
18                  delinquent of any crime against another individual which is not otherwise  
19                  specified in this section if the court determines that registration is warranted by  
20                  the nature of the crime and therefore orders registration for the individual. If the  
21                  court orders an individual to register as an offender under this section, the  
22                  individual shall comply with all of the registration requirements in this chapter.
- 23                  3. If a court has not ordered an individual to register in this state, an individual who  
24                  resides, is homeless, or is temporarily domiciled in this state shall register if the  
25                  individual:
- 26                  a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
27                  against a child described in section 12.1-29-02, or section 12.1-18-01 or  
28                  12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
29                  offender;
- 30                  b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,  
31                  an offense in a court of this state for which registration is mandatory under this

1 section or an offense from another court in the United States, a tribal court, or  
2 court of another country equivalent to those offenses set forth in this section; or

3 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against  
4 a child or as a sexual offender for which registration is mandatory under this  
5 section if the conviction occurred after July 31, 1985.

6 4. In its consideration of mental abnormality or predatory conduct, the court shall  
7 consider the age of the offender, the age of the victim, the difference in ages of the  
8 victim and offender, the circumstances and motive of the crime, the relationship of the  
9 victim and offender, and the mental state of the offender. The court may order an  
10 offender to be evaluated by a qualified counselor, psychologist, or physician before  
11 sentencing. Except as provided under subdivision e of subsection 2, the court shall  
12 state on the record in open court its affirmative finding for not requiring an offender to  
13 register.

14 5. When an individual is required to register under this section, the official in charge of a  
15 facility or institution where the individual required to register is confined, or the  
16 department, shall, before the discharge, parole, or release of that individual, inform the  
17 individual of the duty to register pursuant to this section. The official or the department  
18 shall require the individual to read and sign a form as required by the attorney general,  
19 stating that the duty of the individual to register has been explained to that individual.  
20 The official in charge of the place of confinement, or the department, shall obtain the  
21 address where the individual expects to reside, attend school, or work upon discharge,  
22 parole, or release and shall report the address to the attorney general. The official in  
23 charge of the place of confinement, or the department, shall give three copies of the  
24 form to the individual and shall send three copies to the attorney general no later than  
25 forty-five days before the scheduled release of that individual. The attorney general  
26 shall forward one copy to the law enforcement agency having jurisdiction where the  
27 individual expects to reside, attend school, or work upon discharge, parole, or release,  
28 one copy to the prosecutor who prosecuted the individual, and one copy to the court in  
29 which the individual was prosecuted. All forms must be transmitted and received by  
30 the law enforcement agency, prosecutor, and court thirty days before the discharge,  
31 parole, or release of the individual.

- 1           6.    An individual who is required to register pursuant to this section who is released on  
2                    probation or discharged upon payment of a fine must, before the release or discharge,  
3                    be informed of the duty to register under this section by the court in which that  
4                    individual is convicted. The court shall require the individual to read and sign a form as  
5                    required by the attorney general, stating that the duty of the individual to register under  
6                    this section has been explained to that individual. The court shall obtain the address  
7                    where the individual expects to reside, attend school, or work upon release or  
8                    discharge and shall report the address to the attorney general within three days. The  
9                    court shall give one copy of the form to the individual and shall send two copies to the  
10                   attorney general. The attorney general shall forward one copy to the appropriate law  
11                   enforcement agency having jurisdiction where the individual expects to reside, attend  
12                   school, or work upon discharge, parole, or release.
- 13           7.    Registration consists of a written statement signed by the individual, giving the  
14                   information required by the attorney general, and the biometric data and photograph of  
15                   the individual. An individual who is not required to provide a sample of blood and other  
16                   body fluids under section 31-13-03 or by the individual's state or court of conviction or  
17                   adjudication shall submit a sample of blood and other body fluids for inclusion in a  
18                   centralized database of DNA identification records under section 31-13-05. The  
19                   collection, submission, testing and analysis of, and records produced from, samples of  
20                   blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile  
21                   comparison is admissible in accordance with section 31-13-02. A report of the DNA  
22                   analysis certified by the state crime laboratory is admissible in accordance with section  
23                   31-13-05. A district court shall order an individual who refuses to submit a sample of  
24                   blood or other body fluids for registration purposes to show cause at a specified time  
25                   and place why the individual should not be required to submit the sample required  
26                   under this subsection. Within three days after registration, the registering law  
27                   enforcement agency shall forward the statement, biometric data, and photograph to  
28                   the attorney general and shall submit the sample of the individual's blood and body  
29                   fluids to the state crime laboratory. If an individual required to register under this  
30                   section has a change in vehicle or computer online identity, the individual shall  
31                   register, within three days after the change, with the law enforcement agency with

1 which that individual last registered of the individual's new vehicle or computer online  
2 identity. If an individual required to register pursuant to this section has a change in  
3 name, school, or residence or employment address, that individual shall register, at  
4 least ten days before the change, with the law enforcement agency with which that  
5 individual last registered of the individual's new name, school, residence address, or  
6 employment address. A change in school or employment address includes the  
7 termination of school or employment for which an individual required to register under  
8 this section, the individual shall register within three days of the termination with the  
9 law enforcement agency with which the individual last registered. The law enforcement  
10 agency, within three days after receipt of the information, shall forward it to the  
11 attorney general. The attorney general shall forward the appropriate registration data  
12 to the law enforcement agency having local jurisdiction of the new place of residence,  
13 school, or employment. Upon a change of address, the individual required to register  
14 shall also register within three days at the law enforcement agency having local  
15 jurisdiction of the new place of residence, school, or employment. The individual  
16 registering under this section shall periodically confirm the information required under  
17 this subsection in a manner and at an interval determined by the attorney general. A  
18 law enforcement agency that has previously registered an offender may omit the  
19 biometric data portion of the registration if that agency has a set of biometric data on  
20 file for that individual and is personally familiar with and can visually identify the  
21 offender. These provisions also apply in any other state that requires registration.

- 22 8. An individual required to register under this section shall comply with the registration  
23 requirement for the longer of the following periods:
- 24 a. A period of fifteen years after the date of sentence or order deferring or  
25 suspending sentence upon a plea or finding of guilt or after release from  
26 incarceration, whichever is later;
  - 27 b. A period of twenty-five years after the date of sentence or order deferring or  
28 suspending sentence upon a plea or finding of guilt or after release from  
29 incarceration, whichever is later, if the offender is assigned a moderate risk by the  
30 attorney general as provided in subsection 12; or
  - 31 c. For the life of the individual, if that individual:

- 1           (1) On two or more occasions has pled guilty or nolo contendere to, or been  
2           found guilty of a crime against a child or as a sexual offender. If all qualifying  
3           offenses are misdemeanors, this lifetime provision does not apply unless a  
4           qualifying offense was committed after August 1, 1999;
- 5           (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense  
6           committed after August 1, 1999, which is described in subdivision a of  
7           subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of  
8           subsection 1 of section 12.1-20-03 if the person is an adult and the victim is  
9           under age twelve, or section 12.1-18-01 if that individual is an adult other  
10          than a parent of the victim, or an equivalent offense from another court in  
11          the United States, a tribal court, or court of another country; or
- 12          (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 13    9. An individual required to register under this section who violates this section is guilty of  
14    a class C felony. The failure of a homeless individual to register as required in  
15    subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of  
16    court shall forward all warrants issued for a violation of this section to the county  
17    sheriff, who shall enter all such warrants into the national crime information center  
18    wanted person file. A court may not relieve an individual, other than a juvenile, who  
19    violates this section from serving a term of at least ninety days in jail and completing  
20    probation of one year.
- 21    10. When an individual is released on parole or probation and is required to register  
22    pursuant to this section, but fails to do so within the time prescribed, the court shall  
23    order the probation, or the parole board shall order the parole, of the individual  
24    revoked.
- 25    11. If an individual required to register pursuant to this section is temporarily sent outside  
26    the facility or institution where that individual is confined under conviction or sentence,  
27    the local law enforcement agency having jurisdiction over the place where that  
28    individual is being sent must be notified within a reasonable time period before that  
29    individual is released from the facility or institution. This subsection does not apply to  
30    any individual temporarily released under guard from the facility or institution in which  
31    that individual is confined.



- 1       12. The attorney general, with the assistance of the department and the juvenile courts,  
2       shall develop guidelines for the risk assessment of sexual offenders who are required  
3       to register, with a low-risk, moderate-risk, or high-risk level being assigned to each  
4       offender as follows:
- 5       a. The department shall conduct a risk assessment of sexual offenders who are  
6       incarcerated in institutions under the control of the department and sexual  
7       offenders who are on supervised probation. The department, in a timely manner,  
8       shall provide the attorney general any information, including the offender's level  
9       of risk and supporting documentation, concerning individuals required to be  
10      registered under this section who are about to be released or placed into the  
11      community.
- 12      b. The attorney general shall conduct a risk assessment of sexual offenders who  
13      are not under the custody or supervision of the department. The attorney general  
14      may adopt a law enforcement agency's previous assignment of risk level for an  
15      individual if the assessment was conducted in a manner substantially similar to  
16      the guidelines developed under this subsection.
- 17      c. The juvenile courts or the agency having legal custody of a juvenile shall conduct  
18      a risk assessment of juvenile sexual offenders who are required to register under  
19      this section. The juvenile courts or the agency having legal custody of a juvenile  
20      shall provide the attorney general any information, including the offender's level  
21      of risk and supporting documentation, concerning juveniles required to register  
22      and who are about to be released or placed into the community.
- 23      d. The attorney general shall notify the offender of the risk level assigned to that  
24      offender. An offender may request a review of that determination with the attorney  
25      general's sexual offender risk assessment committee and may present any  
26      information that the offender believes may lower the assigned risk level.
- 27      13. Relevant and necessary conviction and registration information must be disclosed to  
28      the public by a law enforcement agency if the individual is a moderate or high risk and  
29      the agency determines that disclosure of the conviction and registration information is  
30      necessary for public protection. The attorney general shall develop guidelines for

1 public disclosure of offender registration information. Public disclosure may include  
2 internet access if the offender:

- 3 a. Is required to register for a lifetime under subsection 8;  
4 b. Has been determined to be a high risk to the public by the department, the  
5 attorney general, or the courts, according to guidelines developed by those  
6 agencies; or  
7 c. Has been determined to be a high risk to the public by an agency of another state  
8 or the federal government.

9 If the offender has been determined to be a moderate risk, public disclosure must  
10 include, at a minimum, notification of the offense to the victim registered under chapter  
11 12.1-34 and to any agency, civic organization, or group of persons who have  
12 characteristics similar to those of a victim of the offender. Upon request, law  
13 enforcement agencies may release conviction and registration information regarding  
14 low-risk, moderate-risk, or high-risk offenders.

15 14. A state officer, law enforcement agency, or public school district or governing body of a  
16 nonpublic school or any appointee, officer, or employee of those entities is not subject  
17 to civil or criminal liability for making risk determinations, allowing a sexual offender to  
18 attend a school function under section 12.1-20-25, or for disclosing or for failing to  
19 disclose information as permitted by this section.

20 15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
21 offender or as an offender against a child under this section, the juvenile shall comply  
22 with the registration requirements in this section. Notwithstanding any other provision  
23 of law, a law enforcement agency shall register a juvenile offender in the same manner  
24 as adult offenders and may release any relevant and necessary information on file to  
25 other law enforcement agencies, the department of human services, or the public if  
26 disclosure is necessary to protect public health or safety. The law enforcement agency  
27 shall release any relevant and necessary information on file to the superintendent or  
28 principal of the school the juvenile attends. The school administration shall notify  
29 others in similar positions if the juvenile transfers to another learning institution in or  
30 outside the state.

- 1       16. If an individual has been required to register as a sexual offender or an offender  
2           against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,  
3           1999, the individual may petition the court to be removed from the offender list if  
4           registration is no longer mandatory for that individual. In considering the petition, the  
5           court shall comply with the requirements of this section.
- 6       17. A sexual offender who is currently assigned a moderate or high-risk level by the  
7           attorney general may not use a state park of this state as a residence or residential  
8           address to comply with the registration requirements of this section. Before arriving at  
9           a state park for overnight lodging or camping, a sexual offender who is assigned a  
10          moderate or high-risk level by the attorney general shall notify a parks and recreation  
11          department law enforcement officer at the state park where the sexual offender will be  
12          staying.
- 13      18. When an individual who is required to register pursuant to this section plans to travel  
14          outside of the United States, at least twenty-one days before the intended travel, the  
15          individual shall inform the agency with which the individual last registered the  
16          individual's residence address the details of the intended travel. Upon receipt of the  
17          information from the registering law enforcement agency, the attorney general shall  
18          report the travel to the United States marshal service.

19           **Offenders against children and sexual offenders - Sexually violent predators -**  
20      **Registration requirement - Penalty. (Contingent effective date - [See note](#))**

- 21      1. As used in this section:
- 22          a. "A crime against a child" means a violation of chapter 12.1-16, section  
23              12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
24              subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
25              12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of  
26              section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
27              from another court in the United States, a tribal court, or court of another country,  
28              in which the victim is a minor or is otherwise of the age required for the act to be  
29              a crime or an attempt or conspiracy to commit these offenses.
- 30          b. "Department" means the department of corrections and rehabilitation.

- 1           c. "Homeless" means an individual who is physically present in this state, but is  
2           living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
3           otherwise without a traditional dwelling, and also one who resides in this state but  
4           does not maintain a permanent address. The term does not include individuals  
5           who are temporarily domiciled or individuals residing in public or private shelters  
6           that provide temporary living accommodations.
- 7           d. "Mental abnormality" means a congenital or acquired condition of an individual  
8           that affects the emotional or volitional capacity of the individual in a manner that  
9           predisposes that individual to the commission of criminal sexual acts to a degree  
10          that makes the individual a menace to the health and safety of other individuals.
- 11          e. "Predatory" means an act directed at a stranger or at an individual with whom a  
12          relationship has been established or promoted for the primary purpose of  
13          victimization.
- 14          f. "Reside" means to live permanently or be situated for a considerable time in a  
15          home or a particular place.
- 16          g. "Sexual offender" means a person who has pled guilty to or been found guilty,  
17          including juvenile delinquent adjudications, of a violation of section 12.1-20-03,  
18          12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,  
19          12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1,  
20          12.1-20-12.2, 12.1-20-12.3 except for subdivision a of subsection 1 and  
21          subdivision b of subsection 1 if the offense involves only a demand for money,  
22          chapter 12.1-27.2, subsection 2 of section 12.1-22-03.1, subdivision b of  
23          subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or  
24          12.1-41-06, or an equivalent offense from another court in the United States, a  
25          tribal court, or court of another country, or an attempt or conspiracy to commit  
26          these offenses.
- 27          h. "Sexually dangerous individual" means an individual who meets the definition  
28          specified in section 25-03.3-01.
- 29          i. "Temporarily domiciled" means staying or being physically present in this state for  
30          more than thirty days in a calendar year or at a location for longer than ten  
31          consecutive days, attending school for longer than ten days, or maintaining

1                   employment in the jurisdiction for longer than ten days, regardless of the state of  
2                   the residence.

3           2.   The court shall impose, in addition to any penalty provided by law, a requirement that  
4           the individual register, within three days of coming into a county in which the individual  
5           resides, is homeless, or within the period identified in this section that the individual  
6           becomes temporarily domiciled. The individual must register with the chief of police of  
7           the city of the individual's place of residence, or the sheriff of the county if the  
8           individual resides in an area other than a city. A homeless individual shall register  
9           every three days with the sheriff or chief of police of the jurisdiction in which the  
10          individual is physically present. The court shall require an individual to register by  
11          stating this requirement on the court records, if that individual:

12          a.   Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual  
13          offender or an attempted felonious sexual offender, including juvenile delinquent  
14          adjudications of equivalent offenses unless the offense is listed in subdivision c.

15          b.   Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
16          for, a misdemeanor or attempted misdemeanor. The court may deviate from  
17          requiring an individual to register if the court first finds the individual is no more  
18          than three years older than the victim if the victim is a minor, the individual has  
19          not previously been convicted as a sexual offender or of a crime against a child,  
20          and the individual did not exhibit mental abnormality or predatory conduct in the  
21          commission of the offense.

22          c.   Is a juvenile found delinquent under subdivision d of subsection 1 of section  
23          12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual  
24          offender for a misdemeanor. The court may deviate from requiring the juvenile to  
25          register if the court first finds the juvenile has not previously been convicted as a  
26          sexual offender or for a crime against a child, and the juvenile did not exhibit  
27          mental abnormality or predatory conduct in the commission of the offense.

28          d.   Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
29          child or an attempted crime against a child, including juvenile delinquent  
30          adjudications of equivalent offenses. Except if the offense is described in section  
31          12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent

- 1 of the victim, the court may deviate from requiring an individual to register if the  
2 court first finds the individual has not previously been convicted as a sexual  
3 offender or for a crime against a child, and the individual did not exhibit mental  
4 abnormality or predatory conduct in the commission of the offense.
- 5 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated  
6 delinquent of any crime against another individual which is not otherwise  
7 specified in this section if the court determines that registration is warranted by  
8 the nature of the crime and therefore orders registration for the individual. If the  
9 court orders an individual to register as an offender under this section, the  
10 individual shall comply with all of the registration requirements in this chapter.
- 11 3. If a court has not ordered an individual to register in this state, an individual who  
12 resides, is homeless, or is temporarily domiciled in this state shall register if the  
13 individual:
- 14 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
15 against a child described in section 12.1-29-02, or section 12.1-18-01 or  
16 12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
17 offender;
- 18 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,  
19 an offense in a court of this state for which registration is mandatory under this  
20 section or an offense from another court in the United States, a tribal court, or  
21 court of another country equivalent to those offenses set forth in this section; or
- 22 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against  
23 a child or as a sexual offender for which registration is mandatory under this  
24 section if the conviction occurred after July 31, 1985.
- 25 4. In its consideration of mental abnormality or predatory conduct, the court shall  
26 consider the age of the offender, the age of the victim, the difference in ages of the  
27 victim and offender, the circumstances and motive of the crime, the relationship of the  
28 victim and offender, and the mental state of the offender. The court may order an  
29 offender to be evaluated by a qualified counselor, psychologist, or physician before  
30 sentencing. Except as provided under subdivision e of subsection 2, the court shall

1 state on the record in open court its affirmative finding for not requiring an offender to  
2 register.

3 5. When an individual is required to register under this section, the official in charge of a  
4 facility or institution where the individual required to register is confined, or the  
5 department, shall, before the discharge, parole, or release of that individual, inform the  
6 individual of the duty to register pursuant to this section. The official or the department  
7 shall require the individual to read and sign a form as required by the attorney general,  
8 stating that the duty of the individual to register has been explained to that individual.  
9 The official in charge of the place of confinement, or the department, shall obtain the  
10 address where the individual expects to reside, attend school, or work upon discharge,  
11 parole, or release and shall report the address to the attorney general. The official in  
12 charge of the place of confinement, or the department, shall give three copies of the  
13 form to the individual and shall send three copies to the attorney general no later than  
14 forty-five days before the scheduled release of that individual. The attorney general  
15 shall forward one copy to the law enforcement agency having jurisdiction where the  
16 individual expects to reside, attend school, or work upon discharge, parole, or release,  
17 one copy to the prosecutor who prosecuted the individual, and one copy to the court in  
18 which the individual was prosecuted. All forms must be transmitted and received by  
19 the law enforcement agency, prosecutor, and court thirty days before the discharge,  
20 parole, or release of the individual.

21 6. An individual who is required to register pursuant to this section who is released on  
22 probation or discharged upon payment of a fine must, before the release or discharge,  
23 be informed of the duty to register under this section by the court in which that  
24 individual is convicted. The court shall require the individual to read and sign a form as  
25 required by the attorney general, stating that the duty of the individual to register under  
26 this section has been explained to that individual. The court shall obtain the address  
27 where the individual expects to reside, attend school, or work upon release or  
28 discharge and shall report the address to the attorney general within three days. The  
29 court shall give one copy of the form to the individual and shall send two copies to the  
30 attorney general. The attorney general shall forward one copy to the appropriate law

1 enforcement agency having jurisdiction where the individual expects to reside, attend  
2 school, or work upon discharge, parole, or release.

- 3 7. Registration consists of a written or electronic statement signed by the individual,  
4 giving the information required by the attorney general, and the biometric data and  
5 photograph of the individual. An individual who is not required to provide a sample of  
6 blood and other body fluids under section 31-13-03 or by the individual's state or court  
7 of conviction or adjudication shall submit a sample of blood and other body fluids for  
8 inclusion in a centralized database of DNA identification records under section  
9 31-13-05. The collection, submission, testing and analysis of, and records produced  
10 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence  
11 of the DNA profile comparison is admissible in accordance with section 31-13-02. A  
12 report of the DNA analysis certified by the state crime laboratory is admissible in  
13 accordance with section 31-13-05. A district court shall order an individual who refuses  
14 to submit a sample of blood or other body fluids for registration purposes to show  
15 cause at a specified time and place why the individual should not be required to  
16 submit the sample required under this subsection. Within three days after registration,  
17 the registering law enforcement agency shall forward the statement, biometric data,  
18 and photograph to the attorney general and shall submit the sample of the individual's  
19 blood and body fluids to the state crime laboratory. If an individual required to register  
20 under this section has a change in vehicle or computer online identity, the individual  
21 shall register, within three days after the change, with the law enforcement agency  
22 having local jurisdiction of the individual's place of residence of the individual's new  
23 vehicle or computer online identity. If an individual required to register pursuant to this  
24 section has a change in name, school, or residence or employment address, that  
25 individual shall register, at least ten days before the change, with the law enforcement  
26 agency having local jurisdiction of the individual's place of residence of the individual's  
27 new name, school, residence address, or employment address. A change in school or  
28 employment address includes the termination of school or employment for which an  
29 individual required to register under this section, the individual shall register within  
30 three days of the termination with the law enforcement agency having local jurisdiction  
31 of the individual's place of residence. The law enforcement agency, within three days



1 after receipt of the information, shall forward it to the attorney general. The attorney  
2 general shall forward the appropriate registration data to the law enforcement agency  
3 having local jurisdiction of the new place of residence, school, or employment. Upon a  
4 change of address, the individual required to register also shall register within three  
5 days at the law enforcement agency having local jurisdiction of the new place of  
6 residence. If an individual required to register in North Dakota, including in a tribal  
7 registry, resides in another state or on tribal lands, that individual shall register  
8 employment and school addresses and any changes in required registration  
9 information with the law enforcement agency having local jurisdiction over the school  
10 or employment address. The individual registering under this section shall periodically  
11 confirm the information required under this subsection in a manner and at an interval  
12 determined by the attorney general. A law enforcement agency that has previously  
13 registered an offender may omit the biometric data portion of the registration if that  
14 agency has a set of biometric data on file for that individual and is personally familiar  
15 with and can visually identify the offender. These provisions also apply in any other  
16 state that requires registration.

- 17 8. An individual required to register under this section shall comply with the registration  
18 requirement for the longer of the following periods:
- 19 a. A period of fifteen years after the date of sentence or order deferring or  
20 suspending sentence upon a plea or finding of guilt or after release from  
21 incarceration, whichever is later;
  - 22 b. A period of twenty-five years after the date of sentence or order deferring or  
23 suspending sentence upon a plea or finding of guilt or after release from  
24 incarceration, whichever is later, if the offender is assigned a moderate risk by the  
25 attorney general as provided in subsection 12; or
  - 26 c. For the life of the individual, if that individual:
    - 27 (1) On two or more occasions has pled guilty or nolo contendere to, or been  
28 found guilty of a crime against a child or as a sexual offender. If all qualifying  
29 offenses are misdemeanors, this lifetime provision does not apply unless a  
30 qualifying offense was committed after August 1, 1999;

1           (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense  
2           committed after August 1, 1999, which is described in subdivision a of  
3           subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of  
4           subsection 1 of section 12.1-20-03 if the person is an adult and the victim is  
5           under age twelve, or section 12.1-18-01 if that individual is an adult other  
6           than a parent of the victim, or an equivalent offense from another court in  
7           the United States, a tribal court, or court of another country; or

8           (3) Is assigned a high risk by the attorney general as provided in subsection 12.

9        9. An individual required to register under this section who violates this section is guilty of  
10       a class C felony. The failure of a homeless individual to register as required in  
11       subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of  
12       court shall forward all warrants issued for a violation of this section to the county  
13       sheriff, who shall enter all such warrants into the national crime information center  
14       wanted person file. A court may not relieve an individual, other than a juvenile, who  
15       violates this section from serving a term of at least ninety days in jail and completing  
16       probation of one year.

17       10. When an individual is released on parole or probation and is required to register  
18       pursuant to this section, but fails to do so within the time prescribed, the court shall  
19       order the probation, or the parole board shall order the parole, of the individual  
20       revoked.

21       11. If an individual required to register pursuant to this section is temporarily sent outside  
22       the facility or institution where that individual is confined under conviction or sentence,  
23       the local law enforcement agency having jurisdiction over the place where that  
24       individual is being sent must be notified within a reasonable time period before that  
25       individual is released from the facility or institution. This subsection does not apply to  
26       any individual temporarily released under guard from the facility or institution in which  
27       that individual is confined.

28       12. The attorney general, with the assistance of the department and the juvenile courts,  
29       shall develop guidelines for the risk assessment of sexual offenders who are required  
30       to register, with a low-risk, moderate-risk, or high-risk level being assigned to each  
31       offender as follows:

- 1           a. The department shall conduct a risk assessment of sexual offenders who are  
2           incarcerated in institutions under the control of the department and sexual  
3           offenders who are on supervised probation. The department, in a timely manner,  
4           shall provide the attorney general any information, including the offender's level  
5           of risk and supporting documentation, concerning individuals required to be  
6           registered under this section who are about to be released or placed into the  
7           community.
- 8           b. The attorney general shall conduct a risk assessment of sexual offenders who  
9           are not under the custody or supervision of the department. The attorney general  
10          may adopt a law enforcement agency's previous assignment of risk level for an  
11          individual if the assessment was conducted in a manner substantially similar to  
12          the guidelines developed under this subsection.
- 13          c. The juvenile courts or the agency having legal custody of a juvenile shall conduct  
14          a risk assessment of juvenile sexual offenders who are required to register under  
15          this section. The juvenile courts or the agency having legal custody of a juvenile  
16          shall provide the attorney general any information, including the offender's level  
17          of risk and supporting documentation, concerning juveniles required to register  
18          and who are about to be released or placed into the community.
- 19          d. The attorney general shall notify the offender of the risk level assigned to that  
20          offender. An offender may request a review of that determination with the attorney  
21          general's sexual offender risk assessment committee and may present any  
22          information that the offender believes may lower the assigned risk level.
- 23      13. An individual assessed as a high-risk sexual offender in accordance with  
24      subsection 12, may not reside within five hundred feet [152.4 meters] of a public or  
25      nonpublic preschool or elementary, middle, or high school.
- 26      14. Relevant and necessary conviction and registration information must be disclosed to  
27      the public by a law enforcement agency if the individual is a moderate or high risk and  
28      the agency determines that disclosure of the conviction and registration information is  
29      necessary for public protection. The attorney general shall develop guidelines for  
30      public disclosure of offender registration information. Public disclosure may include  
31      internet access if the offender:

- 1 a. Is required to register for a lifetime under subsection 8;
- 2 b. Has been determined to be a high risk to the public by the department, the
- 3 attorney general, or the courts, according to guidelines developed by those
- 4 agencies; or
- 5 c. Has been determined to be a high risk to the public by an agency of another state
- 6 or the federal government.

7 If the offender has been determined to be a moderate risk, public disclosure must  
8 include, at a minimum, notification of the offense to the victim registered under chapter  
9 12.1-34 and to any agency, civic organization, or group of persons who have  
10 characteristics similar to those of a victim of the offender. Upon request, law  
11 enforcement agencies may release conviction and registration information regarding  
12 low-risk, moderate-risk, or high-risk offenders.

13 15. A state officer, law enforcement agency, or public school district or governing body of a  
14 nonpublic school or any appointee, officer, or employee of those entities is not subject  
15 to civil or criminal liability for making risk determinations, allowing a sexual offender to  
16 attend a school function under section 12.1-20-25, or for disclosing or for failing to  
17 disclose information as permitted by this section.

18 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
19 offender or as an offender against a child under this section, the juvenile shall comply  
20 with the registration requirements in this section. Notwithstanding any other provision  
21 of law, a law enforcement agency shall register a juvenile offender in the same manner  
22 as adult offenders and may release any relevant and necessary information on file to  
23 other law enforcement agencies, the department of human services, or the public if  
24 disclosure is necessary to protect public health or safety. The law enforcement agency  
25 shall release any relevant and necessary information on file to the superintendent or  
26 principal of the school the juvenile attends. The school administration shall notify  
27 others in similar positions if the juvenile transfers to another learning institution in or  
28 outside the state.

29 17. If an individual has been required to register as a sexual offender or an offender  
30 against a child under section 12.1-32-15 or former section 27-20-52.1 before August 1,  
31 1999, the individual may petition the court to be removed from the offender list if

1 registration is no longer mandatory for that individual. In considering the petition, the  
2 court shall comply with the requirements of this section.

3 18. A sexual offender who is currently assigned a moderate or high-risk level by the  
4 attorney general may not use a state park of this state as a residence or residential  
5 address to comply with the registration requirements of this section. Before arriving at  
6 a state park for overnight lodging or camping, a sexual offender who is assigned a  
7 moderate or high-risk level by the attorney general shall notify a parks and recreation  
8 department law enforcement officer at the state park where the sexual offender will be  
9 staying.

10 19. When an individual who is required to register pursuant to this section plans to travel  
11 outside of the United States, at least twenty-one days before the intended travel, the  
12 individual shall inform the agency with which the individual last registered the  
13 individual's residence address the details of the intended travel. Upon receipt of the  
14 information from the registering law enforcement agency, the attorney general shall  
15 report the travel to the United States marshal service.

16 **SECTION 3. AMENDMENT.** Subsections 1 and 3 of section 12.1-41-12 of the North Dakota  
17 Century Code are amended and reenacted as follows:

- 18 1. If the individual was a minor at the time of the offense and committed the offense as a  
19 direct result of being a victim, the individual is not criminally liable or subject to a  
20 juvenile delinquency proceeding under chapter ~~27-2027-20.4~~ for:
- 21 a. Prostitution under section 12.1-29-03;
  - 22 b. Misdemeanor forgery under section 12.1-24-01;
  - 23 c. Misdemeanor theft offenses under chapter 12.1-23;
  - 24 d. Insufficient funds or credit offenses under section 6-08-16;
  - 25 e. Manufacture or possession of a controlled or counterfeit substance offenses  
26 under section 19-03.1-23; and
  - 27 f. Drug paraphernalia offenses under chapter 19-03.4.
- 28 3. An individual who has engaged in commercial sexual activity is not criminally liable or  
29 subject to a juvenile delinquency proceeding under chapter ~~27-2027-20.4~~ for  
30 prostitution if the individual was a minor at the time of the offense.

1           **SECTION 4. AMENDMENT.** Subsection 2 of section 14-02.1-03.1 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           2. Any pregnant woman under the age of eighteen or next friend is entitled to apply to  
4 the juvenile court for authorization to obtain an abortion without parental consent. All  
5 proceedings on such application must be conducted in the juvenile court of the county  
6 of the minor's residence before a juvenile judge or referee, if authorized by the juvenile  
7 court judge in accordance with the provisions of chapter 27-05, except that the  
8 parental notification requirements of ~~chapter 27-20~~rules 3, 4, and 5 of the North  
9 Dakota Rules of Juvenile Procedure are not applicable to proceedings under this  
10 section. A court may change the venue of proceedings under this section to another  
11 county only upon finding that a transfer is required in the best interests of the minor. All  
12 applications in accordance with this section must be heard by a juvenile judge or  
13 referee within forty-eight hours, excluding Saturdays and Sundays, of receipt of the  
14 application. The juvenile judge or referee shall find by clear and convincing evidence:

- 15           a. Whether or not the minor is sufficiently mature and well informed with regard to  
16 the nature, effects, and possible consequences of both having an abortion and  
17 bearing her child to be able to choose intelligently among the alternatives.
- 18           b. If the minor is not sufficiently mature and well informed to choose intelligently  
19 among the alternatives without the advice and counsel of her parents or  
20 guardian, whether or not it would be in the best interests of the minor to notify her  
21 parents or guardian of the proceedings and call in the parents or guardian to  
22 advise and counsel the minor and aid the court in making its determination and to  
23 assist the minor in making her decision.
- 24           c. If the minor is not sufficiently mature and well informed to choose intelligently  
25 among the alternatives and it is found not to be in the best interests of the minor  
26 to notify and call in her parents or guardian for advice and counsel, whether an  
27 abortion or some other alternative would be in the best interests of the minor.

28           **SECTION 5. AMENDMENT.** Subsection 2 of section 14-02.1-08 of the North Dakota  
29 Century Code is amended and reenacted as follows:

- 30           2. Whenever an unborn child who is the subject of abortion is born alive and is viable, it  
31 becomes an abandoned child and ~~deprived~~child in need of protection, unless:

- 1           a. The termination of the pregnancy is necessary to preserve the life of the mother;  
2           or  
3           b. The mother and her spouse, or either of them, have agreed in writing in advance  
4           of the abortion, or within seventy-two hours thereafter, to accept the parental  
5           rights and responsibilities for the unborn child if it survives the abortion  
6           procedure.

7           **SECTION 6. AMENDMENT.** Subdivision c of subsection 2 of section 14-07.1-18 of the  
8 North Dakota Century Code is amended and reenacted as follows:

- 9           c. A court of competent jurisdiction orders the disclosure after an in camera review  
10          and a written finding by the court that the information directly and specifically  
11          relates to a determination of child abuse and neglect under chapter 50-25.1 or  
12          termination of parental rights under sections 14-15-19, ~~27-20-44, 27-20-45,~~  
13          ~~27-20-46, 27-20-47~~27-20.3-22, 27-20.3-23, 27-20.3-24, 27-20.3-25, and  
14          ~~27-20-48~~27-20.3-26; or

15          **SECTION 7. AMENDMENT.** Section 14-15-11 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17          **14-15-11. Notice of petition - Investigation and hearing.**

- 18          1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place  
19          for hearing the petition. At least twenty days before the date of hearing, notice of  
20          the filing of the petition and of the time and place of hearing must be given by the  
21          petitioner to the department and human service zone; any agency or individual  
22          whose consent to the adoption is required by this chapter but who has not  
23          consented; an individual whose consent is dispensed with upon any ground  
24          mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06  
25          but who has not consented; and any individual identified by the court as a  
26          biological parent or a possible biological parent of the minor, upon making inquiry  
27          to the extent necessary and appropriate, as in proceedings under section  
28          ~~27-20-45~~27-20.3-24, unless the individual has relinquished parental rights or the  
29          individual's parental rights have been previously terminated by a court. The  
30          notice to the department and human service zone must be accompanied by a  
31          copy of the petition.

- 1           b. Notice of the filing of a petition to adopt an adult must be given by the petitioner  
2           at least twenty days before the date of the hearing to each living parent of the  
3           adult to be adopted.
- 4           2. An investigation must be made by a licensed child-placing agency to inquire into the  
5           conditions and antecedents of a minor sought to be adopted and of the petitioner for  
6           the purpose of ascertaining whether the adoptive home is a suitable home for the  
7           minor and whether the proposed adoption is in the best interest of the minor.
- 8           3. A written report of the investigation must be filed with the court by the investigator  
9           before the petition is heard.
- 10          4. The report of the investigation must contain a review of the child's history; a  
11          preplacement adoption assessment of the petitioner, including a criminal history record  
12          investigation of the petitioner; and a postplacement evaluation of the placement with a  
13          recommendation as to the granting of the petition for adoption and any other  
14          information the court requires regarding the petitioner or the minor.
- 15          5. An investigation and report is not required in cases in which a stepparent is the  
16          petitioner or the individual to be adopted is an adult. The department and human  
17          service zone, when required to consent to the adoption, may give consent without  
18          making the investigation. If the petitioner is a relative other than a stepparent of the  
19          minor, the minor has lived with the petitioner for at least nine months, no allegations of  
20          abuse or neglect have been filed against the petitioner or any member of the  
21          petitioner's household, and the court is satisfied that the proposed adoptive home is  
22          appropriate for the minor, the court may waive the investigation and report required  
23          under this section.
- 24          6. The department and human service zone, when required to consent to the adoption,  
25          may request the licensed child-placing agency to conduct further investigation and to  
26          make a written report thereof as a supplemental report to the court.
- 27          7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy  
28          of the petition and a notice of the time and place of the hearing be given to any  
29          individual whose consent to the adoption is required but who has not consented and to  
30          each living parent of the adult to be adopted. The court may order an appropriate



1 investigation to assist it in determining whether the adoption is in the best interest of  
2 the individuals involved.

3 8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil  
4 Procedure for the service of process in a civil action in this state or in any manner the  
5 court by order directs. Proof of the giving of the notice must be filed with the court  
6 before the petition is heard.

7 **SECTION 8. AMENDMENT.** Subsections 1 and 2 of section 15.1-09-33.4 of the North  
8 Dakota Century Code are amended and reenacted as follows:

9 1. The board of a school district shall prohibit a student from participating in any  
10 extracurricular activity if:

11 a. The student has pled guilty to or been convicted of a criminal offense and  
12 sentenced under section 12.1-32-02.1 or pled guilty or been convicted of an  
13 offense specified in subsection 1 of section 12.1-32-09.1;

14 b. The student has:

15 (1) An order prohibiting contact issued against the student at the request of  
16 another student or employee of the school under section 12.1-31.2-02;

17 (2) A disorderly conduct restraining order issued against the student at the  
18 request of another student or employee of the school under section  
19 12.1-31.2-01, except a temporary restraining order under subsection 4 of  
20 section 12.1-31.2-01; or

21 (3) A protection order issued against the student at the request of another  
22 student or employee of the school, except a temporary protection order  
23 under section 14-07.1-03;

24 c. The principal of the school receives information pertaining to an offense or order  
25 included under this section as provided in ~~subsection 2 of section-~~  
26 ~~27-20-54~~ section 27-20.2-22; or

27 d. The victim of the offense or the subject of the order notifies the principal of the  
28 offense or order.

29 2. For purposes of this section, a representative of the juvenile court system may notify  
30 the principal of a school regarding the existence of files or records of the juvenile court

1           pertaining to a student of the school which are open to inspection by the principal  
2           under ~~subsection 2 of section 27-20-51~~section 27-20.2-22.

3           **SECTION 9. AMENDMENT.** Section 15.1-19-15 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **15.1-19-15. Record retention.**

6           Records regarding a student obtained by a school under section 15.1-19-14, section  
7 ~~27-20-51~~27-20.2-22, or section ~~27-20-52~~27-20.4-21 must be destroyed when the student  
8 reaches the age of eighteen or no longer attends the school, whichever occurs later.

9           **SECTION 10. AMENDMENT.** Section 20.1-13.1-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **20.1-13.1-01. Implied consent to determine alcohol concentration and presence of**  
12 **drugs.**

13           Any individual who operates a motorboat or vessel in this state is deemed to have given  
14 consent, and shall consent, subject to this chapter, to a chemical test, or tests, of the blood,  
15 breath, or urine for the purpose of determining the alcohol concentration or presence of other  
16 drugs, or combination thereof, in the individual's blood, breath, or urine. As used in this chapter,  
17 "operates" means to be in motion, en route, but not at anchor or aground; "vessel" means any  
18 watercraft used or designed to be used for navigation on the water such as a boat operated by  
19 machinery, either permanently or temporarily affixed, a sailboat other than a sailboard, an  
20 inflatable manually propelled boat, a canoe, kayak, or rowboat, but does not include an inner  
21 tube, air mattress, or other water toy; "drug" means any drug or substance or combination of  
22 drugs or substances which renders an individual incapable of safely operating a motorboat or  
23 vessel; and "chemical test" means any test or tests to determine the alcohol concentration or  
24 presence of other drugs, or combination thereof, in the individual's blood, breath, or urine,  
25 approved by the director of the state crime laboratory or the director's designee under this  
26 chapter. The chemical test must be administered at the direction of a game warden or a law  
27 enforcement officer only after placing the individual, except individuals mentioned in section  
28 20.1-13.1-04, under arrest and informing that individual that the individual is or will be charged  
29 with the offense of operating a motorboat or vessel while under the influence of intoxicating  
30 liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody  
31 of a minor under section ~~27-20-13~~27-20.4-05 satisfies the requirement of an arrest. The game

1 warden or law enforcement officer shall also inform the individual charged that refusal of the  
2 individual to submit to the chemical test determined appropriate will result in that individual  
3 being prohibited from operating a motorboat or vessel for up to three years. The game warden  
4 or law enforcement officer shall determine the chemical test to be used. When a minor is taken  
5 into custody for violating section 20.1-13-07, the game warden or law enforcement officer shall  
6 diligently attempt to contact the minor's parent or legal guardian to explain the cause for the  
7 custody and the implied consent chemical testing requirements. Neither the game warden or  
8 law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian  
9 may be permitted to interfere with the administration of chemical testing requirements under this  
10 chapter.

11 **SECTION 11. AMENDMENT.** Section 20.1-15-01 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **20.1-15-01. Implied consent to determine alcohol concentration and presence of**  
14 **drugs.**

15 Any individual who is afield with a gun or other firearm or a bow and arrow is deemed to  
16 have given consent, and shall consent, subject to this chapter, to a chemical test of the blood,  
17 breath, or urine for the purpose of determining the alcohol concentration or presence of other  
18 drugs, or combination thereof, in the individual's blood, breath, or urine. As used in this chapter,  
19 "drug" means any drug or substance or combination of drugs or substances which renders an  
20 individual incapable of safely hunting or being afield with a gun or other firearm or a bow and  
21 arrow, and "chemical test" means any test or tests to determine the alcohol concentration or  
22 presence of other drugs, or combination thereof, in the individual's blood, breath, or urine,  
23 approved by the director of the state crime laboratory or the director's designee under this  
24 chapter. The chemical test must be administered at the direction of a game warden or a law  
25 enforcement officer only after placing the individual, except individuals mentioned in section  
26 20.1-15-04, under arrest and informing that individual that the individual is or will be charged  
27 with the offense of being afield with a gun or other firearm or a bow and arrow while under the  
28 influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter,  
29 the taking into custody of a minor under section ~~27-20-13~~27-20.4-05 satisfies the requirement of  
30 an arrest. The game warden or law enforcement officer shall also inform the individual charged  
31 that refusal of the individual to submit to the chemical test determined appropriate will result in a

1 revocation for up to four years of the individual's hunting privileges. The game warden or law  
2 enforcement officer shall determine the chemical test to be used. When a minor is taken into  
3 custody for violating section 20.1-01-06, the game warden or law enforcement officer shall  
4 diligently attempt to contact the minor's parent or legal guardian to explain the cause for the  
5 custody and the implied consent chemical testing requirements. Neither the game warden or  
6 law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian  
7 may be permitted to interfere with the administration of chemical testing requirements under this  
8 chapter.

9 **SECTION 12. AMENDMENT.** Section 26.1-36-20 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **26.1-36-20. Juvenile's accident and health coverage to continue - Conditions.**

12 Insurance companies and nonprofit health service corporations licensed in this state shall  
13 continue coverage of a juvenile insured under an accident and health insurance policy or a  
14 health service contract while the legal custody of the juvenile has been given by a court, under  
15 ~~chapter 27-20~~ chapters 27-20.3 and 27-20.4, to any public institution or agency, to the same  
16 extent as the general public is covered as long as the juvenile meets all the other usual  
17 qualifications for insurability and continues to pay the policy or contract premiums. A juvenile's  
18 incarceration may not be a basis for cancellation of the juvenile's accident and health insurance  
19 policy or health service contract.

20 **SECTION 13. AMENDMENT.** Section 26.1-40-11.1 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **26.1-40-11.1. Juvenile's suspension of driving privileges - Nontraffic delinquent**  
23 **conduct.**

24 Insurers are prohibited from using or relying on a nontraffic delinquent juvenile's suspension  
25 of driving privileges under section ~~27-20-31.1~~ 27-20.4-16 as a reason for canceling, denying, or  
26 nonrenewing the automobile insurance policy of the nontraffic delinquent juvenile offender or  
27 the parents of the nontraffic delinquent juvenile offender.

28 **SECTION 14. AMENDMENT.** Subsection 2 of section 27-05-30 of the North Dakota  
29 Century Code is amended and reenacted as follows:

30 2. In accordance with rules of the supreme court, the presiding judge may assign a  
31 referee to preside in any case or proceeding provided for in chapter 12.1-31.2, title 14,

1 sections 20.1-01-28 and 20.1-01-29, ~~chapter 27-20, chapter~~chapters 27-20.2, 27-20.3,  
2 27-20.4, and 28-25, subsection 6 of section 50-09-08.6, and subsection 2 of section  
3 50-09-14.

4 **SECTION 15. AMENDMENT.** Section 27-20.1-01 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **27-20.1-01. Definitions.**

7 ~~The definitions set forth in section 27-20-02 are applicable to this chapter.~~As used in this  
8 chapter:

9 1. "Abandon" means:

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

12 (1) To communicate with the child; or

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

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

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

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

21 (3) Willfully fail to furnish food, shelter, clothing, or medical attention reasonably  
22 sufficient to meet the child's needs.

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

25 3. "Child in need of protection" means a child who:

26 a. Is without proper parental care or control, subsistence, education as required by  
27 law, or other care or control necessary for the child's physical, mental, or  
28 emotional health, or morals, and the need for services or protection is not due  
29 primarily to the lack of financial means of the child's parents, guardian, or other  
30 custodian;

31 b. Has been placed for care or adoption in violation of law;

- 1           c. Has been abandoned by the child's parents, guardian, or other custodian;  
2           d. Is without proper parental care, control, or education as required by law, or other  
3           care and control necessary for the child's well-being because of the physical,  
4           mental, emotional, or other illness or disability of the child's parent or parents,  
5           and that such lack of care is not due to a willful act of commission or act of  
6           omission by the child's parents, and care is requested by a parent;  
7           e. Is in need of treatment and whose parents, guardian, or other custodian have  
8           refused to participate in treatment as ordered by the juvenile court;  
9           f. Was subject to prenatal exposure to chronic or severe use of alcohol or any  
10           controlled substance as defined in chapter 19-03.1 in a manner not lawfully  
11           prescribed by a practitioner;  
12           g. Is present in an environment subjecting the child to exposure to a controlled  
13           substance, chemical substance, or drug paraphernalia as prohibited by section  
14           19-03.1-22.2;  
15           h. Is a victim of human trafficking as defined in title 12.1;  
16           i. Is habitually and without justification truant from school;  
17           j. Is habitually disobedient of the reasonable and lawful commands of the child's  
18           parent, guardian, or other custodian and is ungovernable or who is willfully in a  
19           situation dangerous or injurious to the health, safety, or morals of the child or  
20           others; or  
21           k. Exceeds the parent's or legal guardians ability to care for the child due to:  
22           (1) The child's behavioral or mental health conditions;  
23           (2) Ungovernable behavior that has been committed on school grounds during  
24           the operating hours of school.  
25        4. "Child in need of services" means a child who in any of the foregoing instances is in  
26           need of treatment or rehabilitation:  
27           a. Has committed an offense applicable only to a child, except for an offense  
28           committed by a minor fourteen years of age or older under subsection 2 of  
29           section 12.1-31-03 or an equivalent local ordinance or resolution;  
30           b. Has committed an offense in violation of section 5-01-08; or

- 1           c. Is under the age of fourteen years and has purchased, possessed, smoked, or  
2           used tobacco, a tobacco-related product, an electronic smoking device, or an  
3           alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As  
4           used in this subdivision, "electronic smoking device" and "alternative nicotine  
5           product" have the same meaning as in section 12.1-31-03.
- 6           5. "Custodian" means a person, other than a parent or legal guardian, that stands in loco  
7           parentis to the child and a person that has been given legal custody of the child by  
8           order of a court.
- 9           6. "Fit and willing person" means a relative or other individual who has been determined,  
10          after consideration of an assessment that includes a criminal history record  
11          investigation under chapter 50-11.3, to be a qualified individual under this chapter and  
12          chapter 30.1-27, and who consents in writing to act as a legal guardian.
- 13          7. "Relative" means:
- 14           a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt,  
15           uncle, great-uncle, nephew, niece, or first cousin;
- 16           b. An individual with a relationship to the child, derived through a current or former  
17           spouse of the child's parent, similar to a relationship described in subdivision a;
- 18           c. An individual recognized in the child's community as having a relationship with  
19           the child similar to a relationship described in subdivision a; or
- 20           d. The child's stepparent.

21           **SECTION 16. AMENDMENT.** Paragraph 4 of subdivision n of subsection 2 of section  
22           27-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- 23                   (4) The parent has ~~deprived the~~ a child in need of protection as that term is  
24                   defined under section ~~27-20-02~~ 27-20.1-01;

25           **SECTION 17. AMENDMENT.** Subsection 1 of section 27-20.1-10 of the North Dakota  
26           Century Code is amended and reenacted as follows:

- 27                   1. A hearing under this chapter must be conducted by the court without a jury, in an  
28                   informal but orderly manner, and separately from other proceedings not included in  
29                   section ~~27-20-03~~ 27-20.2-03 or section 27-20.1-02.

30           **SECTION 18. AMENDMENT.** Subdivision d of subsection 1 of section 27-20.1-11 of the  
31           North Dakota Century Code is amended and reenacted as follows:





- 1                   (1) To leave the child for an indefinite period without making firm and agreed  
2                   plans, with the child's immediate caregiver, for the parent's resumption of  
3                   physical custody:
- 4                   (2) Following the child's birth or treatment at a hospital, to fail to arrange for the  
5                   child's discharge within ten days after the child no longer requires hospital  
6                   care; or
- 7                   (3) Willfully fail to furnish food, shelter, clothing, or medical attention reasonably  
8                   sufficient to meet the child's needs.
- 9                   2. "Abandoned infant" means a child who has been abandoned before reaching the age  
10                  of one year.
- 11                  3. "Child" means an individual who is:
- 12                  a. Under the age of eighteen years and is not married; or  
13                  b. Under the age of twenty years with respect to a delinquent act committed while  
14                  under the age of eighteen years and not married.
- 15                  4. "Child in need of protection" means a child who:
- 16                  a. Is without proper parental care or control, subsistence, education as required by  
17                  law, or other care or control necessary for the child's physical, mental, or  
18                  emotional health, or morals, and the need for services or protection is not due  
19                  primarily to the lack of financial means of the child's parents, guardian, or other  
20                  custodian;
- 21                  b. Has been placed for care or adoption in violation of law;
- 22                  c. Has been abandoned by the child's parents, guardian, or other custodian;
- 23                  d. Is without proper parental care, control, or education as required by law, or other  
24                  care and control necessary for the child's well-being because of the physical,  
25                  mental, emotional, or other illness or disability of the child's parent or parents,  
26                  and that such lack of care is not due to a willful act of commission or act of  
27                  omission by the child's parents, and care is requested by a parent;
- 28                  e. Is in need of treatment and whose parents, guardian, or other custodian have  
29                  refused to participate in treatment as ordered by the juvenile court;

- 1           f. Was subject to prenatal exposure to chronic or severe use of alcohol or any  
2           controlled substance as defined in chapter 19-03.1 in a manner not lawfully  
3           prescribed by a practitioner;
- 4           g. Is present in an environment subjecting the child to exposure to a controlled  
5           substance, chemical substance, or drug paraphernalia as prohibited by section  
6           19-03.1-22.2; or
- 7           h. Is a victim of human trafficking as defined in title 12.1.
- 8        5. "Child in need of services" means a child who in any of the foregoing instances is in  
9        need of treatment or rehabilitation:
- 10       a. Is habitually and without justification truant from school subject to compulsory  
11       school attendance and is absent from school without an authorized excuse more  
12       than five days during a school year;
- 13       b. Is habitually disobedient of the reasonable and lawful commands of the child's  
14       parent, guardian, or other custodian and is ungovernable or who is willfully in a  
15       situation dangerous or injurious to the health, safety, or morals of the child or  
16       others;
- 17       c. Has committed an offense applicable only to a child, except for an offense  
18       committed by a minor fourteen years of age or older under subsection 2 of  
19       section 12.1-31-03 or an equivalent local ordinance or resolution;
- 20       d. Has committed an offense in violation of minor in consumption or minor in  
21       possession in violation of section 5-01-08; or
- 22       e. Is under the age of fourteen years and has purchased, possessed, smoked, or  
23       used tobacco, a tobacco-related product, an electronic smoking device, or an  
24       alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As  
25       used in this subdivision, "electronic smoking device" and "alternative nicotine  
26       product" have the same meaning as in section 12.1-31-03; and
- 27       f. In any of the foregoing instances is in need of treatment or rehabilitation.
- 28       6. "Custodian" means a person, other than a parent or legal guardian, which stands in  
29       loco parentis to the child and a person that has been given legal custody of the child  
30       by order of a court.

- 1       7. "Delinquent act" means an act designated a crime under the law, including local  
2       ordinances or resolutions of this state, or of another state if the act occurred in that  
3       state, or under federal law, and the crime does not fall under subdivision c of  
4       subsection 21.
- 5       8. "Delinquent child" means a child who has committed a delinquent act and is in need of  
6       treatment or rehabilitation.
- 7       9. "Director" means the director of juvenile court or the director's designee.
- 8       10. "Diversion" means an intervention strategy that redirects a child away from formal  
9       processing in the juvenile justice system, while still holding the child accountable for  
10      that child's actions.
- 11      11. "Facility" means buildings, structures, or systems, including those for essential  
12      administration and support, which are used to provide residential treatment for  
13      children.
- 14      12. "Host county" means the county within the human service zone in which the human  
15      service zone administrative office is located and in which the human service zone  
16      team members are employed.
- 17      13. "Human service zone" means a county or consolidated group of counties  
18      administering human services within a designated area in accordance with an  
19      agreement or plan approved by the department of human services.
- 20      14. "Juvenile court" means the district court of this state.
- 21      15. "Juvenile drug court" means a program established by the supreme court which is a  
22      post-petition or post-adjudication program aimed at intervening in substance use  
23      disorders through intense supervision and participation in recovery services.
- 24      16. "Proceeding" means any hearing conducted before a juvenile court.
- 25      17. "Qualified residential treatment program" means a licensed or approved residence  
26      providing an out-of-home treatment placement for children, including a  
27      trauma-informed model.
- 28      18. "Relative" means:
- 29      a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt,  
30      uncle, great-uncle, nephew, niece, or first cousin;

- 1           b. An individual with a relationship to the child, derived through a current or former  
2           spouse of the child's parent, similar to a relationship described in subdivision a;  
3           c. An individual recognized in the child's community as having a relationship with  
4           the child similar to a relationship described in subdivision a; or  
5           d. The child's stepparent.

6    19. "Restorative justice" means a system of justice which focuses on the rehabilitation of  
7       offenders through reconciliation with victims and the community at large.

8    20. "Shelter care" means temporary care of a child in physically unrestricted facilities.

9    21. "The court" means the district courts as designated by the North Dakota supreme  
10       court which includes juvenile court as a subset of district court.

11   22. "Willfully" has the meaning provided in section 12.1-02-02.

12       **27-20.2-02. Presumption of age.**

13       1. In determining an individual's age for purposes of this chapter, the individual's date of  
14       birth as provided by any of the following is presumed to be the individual's legal date  
15       of birth:

16       a. A state government in the form of a birth certificate, other state-issued  
17       identification, or a certified copy of a birth certificate that includes the individual's  
18       date of birth.

19       b. The United States government in the form of a tribal identification document,  
20       military identification, passport, passport card, permanent resident card,  
21       certificate of United States citizenship, certificate of naturalization, border  
22       crossing card, visa, or other entry document that includes the individual's date of  
23       birth.

24       c. A foreign government in the form of a passport, driver's license, or other foreign  
25       government-issued identity document that includes the individual's date of birth. If  
26       there is a conflict between government-issued forms, a government-issued birth  
27       certificate or a certified copy of a birth certificate takes precedence.

28       2. The presumption in subsection 1 may be rebutted by clear and convincing evidence to  
29       the contrary.

1       **27-20.2-03. Jurisdiction.**

- 2       1. The juvenile court has exclusive original jurisdiction of the following proceedings,  
3       which are governed by this chapter:
- 4       a. Proceedings in which a child is alleged to be delinquent, a child in need of  
5       services, or a child in need of services or protection under this chapter or chapter  
6       27-20.4;
- 7       b. Proceedings for the termination of parental rights except if a part of an adoption  
8       proceeding under chapter 27-20.3;
- 9       c. Proceedings arising under section 27-20.3-17;
- 10      d. Civil forfeiture proceedings arising under chapter 19-03.1 or section 29-31.1-04  
11      for which a child is alleged to have possessed forfeitable property. The juvenile  
12      court shall conduct the proceedings in accordance with the procedures provided  
13      for under sections 19-03.1-36 through 19-03.1-37; and
- 14      e. Proceedings for the guardianship of a child under chapter 27-20.1, except the  
15      testamentary appointment of a guardian for a minor governed by chapter  
16      30.1-27.
- 17      2. The juvenile court also has exclusive original jurisdiction of the following proceedings,  
18      which are governed by the laws relating to those proceedings without regard to the  
19      other provisions of this chapter:
- 20      a. Proceedings to obtain judicial consent to the marriage, employment, or  
21      enlistment in the armed services of a child, if consent is required by law;
- 22      b. Proceedings under the interstate compact on juveniles;
- 23      c. Proceedings under the interstate compact on the placement of children; and
- 24      d. Proceedings arising under section 50-06-06.13 to obtain a judicial determination  
25      that the placement of a severely emotionally disturbed child in an out-of-home  
26      treatment program is in the best interests of the child.

27      **27-20.2-04. Juvenile court personnel.**

- 28      1. The supreme court may provide for the appointment by administrative and personnel  
29      rules of the necessary juvenile court officers, clerical personnel, and other specialized  
30      personnel within the limits of legislative appropriations to assist the juvenile court in  
31      carrying out the juvenile probation and supervisor functions of the juvenile court.

- 1        2. Detention center facilities and personnel must be funded by the county.
- 2        3. All salaries, per diem, and other compensation payable to juvenile court personnel, all
- 3        necessary books, forms, stationery, office supplies and equipment, postage,
- 4        telephone, and travel, and other necessary expenses incurred in carrying out the
- 5        provisions of this chapter must be borne by the state, except for suitable quarters for
- 6        conducting official business and lights and fuel which must be funded by the county
- 7        and except as provided by subsection 1 of section 27-20.2-20.

8        **27-20.2-05. Powers and duties of the director of juvenile court.**

- 9        1. For the purpose of carrying out the objectives and purposes of this chapter and
- 10       subject to the limitations of this chapter or imposed by the court, a director shall:
- 11       a. Make investigations, reports, and recommendations to the juvenile court.
- 12       b. Receive and examine referrals and charges of delinquency, a child in need of
- 13       services, or a child in need of protection for the purpose of considering the
- 14       commencement of proceedings under this chapter.
- 15       c. Make a determination upon intake of referrals regarding the appropriate manner
- 16       to handle delinquent conduct, or a child in need of services or a child in need of
- 17       protection by use of nonjudicial adjustments or formal court processes.
- 18       d. Supervise and assist a child placed on probation for delinquency or a child in
- 19       need of services, or both.
- 20       e. Make appropriate referrals to other private or public agencies of the community if
- 21       assistance of the agencies appears to be needed or desirable.
- 22       f. Issue a temporary custody order concerning a child who is referred to the
- 23       director's supervision or care as a delinquent or a child in need of services or
- 24       protection. Except as provided by this chapter, a director does not have the
- 25       powers of a law enforcement officer.
- 26       g. Take acknowledgments of instruments for the purpose of this chapter.
- 27       h. Make such temporary order not to exceed ninety-six hours for the custody and
- 28       control of a child alleged to be in need of services or protection as may be
- 29       deemed appropriate. The order must be reduced to writing within twenty-four
- 30       hours, excluding holidays and weekends.

- 1           i. Perform all other functions designated by this chapter or under section 27-05-30
- 2           or by order of the court pursuant to such law, including, if qualified, the order of a
- 3           referee.
- 4           j. Issue an order to a law enforcement authority to transport a child to and from a
- 5           specified location.
- 6           k. Receive and examine requests for review of a child's placement at a qualified
- 7           residential treatment program under the federal Family First Prevention Services
- 8           Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
- 9           l. Receive and examine petitions to establish, modify, or terminate a guardianship
- 10          of a minor under chapter 27-20.1.
- 11          2. Any of the foregoing functions may be performed in another state if authorized by the
- 12          court of this state and permitted by the laws of the other state.

13          **27-20.2-06. Commencement of proceedings.**

14          A proceeding under this chapter may be commenced:

- 15          1. By transfer of a case from another court as provided in section 27-20.2-07; or
- 16          2. In other cases by the filing of a petition as provided in this chapter. The petition and all
- 17          other documents in the proceeding must be entitled "In the interest of
- 18          \_\_\_\_\_ , a child". If a child is in shelter care, the petition must be filed within
- 19          thirty days of the shelter care, this is the date on which the child was removed both
- 20          physically and legally from the parents, legal guardians, or custodians.

21          **27-20.2-07. Transfer from other courts.**

22          If it appears to the court in a criminal proceeding, except for an offense transferred under

23          section 27-20.4-20, that the defendant is a child subject to the jurisdiction of the juvenile court,

24          the court immediately shall transfer the case to the juvenile court together with a copy of the

25          accusatory pleading and other papers, documents, and transcripts of testimony relating to the

26          case. The court shall order that the defendant be taken immediately to the juvenile court or to a

27          place of detention designated by the juvenile court, or release the defendant to the custody of

28          the defendant's parent, guardian, custodian, or other person legally responsible for the

29          defendant, to be brought before the juvenile court at a time designated by that court. The

30          accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs

31          the filing of a petition.

1       **27-20.2-08. Nonjudicial adjustment - Diversion.**

2       Before an informal adjustment is held or a petition filed, the director of juvenile court or  
3 designee may impose requirements in lieu of further proceedings for the conduct and control of  
4 the child with a diversion.

5       **27-20.2-09. Nonjudicial adjustment - Informal adjustment.**

- 6       1. Before a petition is filed, the director of juvenile court or designee may give counsel  
7 and advice to the parties and impose conditions for the conduct and control of the  
8 child in lieu of further proceedings with a view to an informal adjustment if it appears:  
9       a. The admitted facts bring the case within the jurisdiction of the court;  
10       b. Information, advice, and conditions, if any, for the conduct and control of the child  
11 without an adjudication would be in the best interest of the public and the child;  
12       and  
13       c. The child and the child's parents, guardian, or other custodian consent to the  
14 counsel and advice with knowledge that consent is not obligatory.
- 15       2. If a victim is identified in the referral, the court must give reasonable written notice of  
16 the informal adjustment to the victim.
- 17       3. The giving of information and advice and any conditions imposed for the conduct and  
18 control of the child may not extend beyond six months from the day commenced  
19 unless extended by the court for an additional period not to exceed six months and  
20 does not authorize the detention of the child if not otherwise permitted by this chapter.  
21 If the child admits to driving or being in actual physical control of a vehicle in violation  
22 of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine  
23 as a condition imposed under this section.
- 24       4. An incriminating statement made by a child to the juvenile court officer or designee  
25 giving information and advice incident to the giving of counsel and advice may not be  
26 used against the child over objection in any proceeding or as part of a risk and need  
27 screening or assessment process.

28       **27-20.2-10. Venue.**

29       Except as provided in sections 27-20.3-03 and 27-20.4-03, a proceeding in this chapter  
30 may be commenced in the county in which the child resides or the county in which the acts  
31 constituting the alleged conduct occurred.



1        **27-20.2-11. Transfer to another juvenile court within the state.**

2        If the child resides in a county of the state and the proceeding is commenced in a court of  
3 another county, the court, on motion of a party or on motion of the court made before final  
4 disposition and in consultation with the court in the other county, may transfer the proceeding to  
5 the county of the child's residence for further action. Like transfer may be made if the residence  
6 of the child changes pending the proceeding. The proceeding must be transferred if the child  
7 has been adjudicated delinquent or a child in need of services and other proceedings involving  
8 the child are pending in the juvenile court of the county of the child's residence.

9        **27-20.2-12. Right to counsel.**

- 10        1. Except as provided in section 27-20.1-09, a child alleged to be within the jurisdiction of  
11 the court in an action arising under chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4  
12 has the right to be represented by counsel in all proceedings in which a petition has  
13 been filed. Counsel for the child must be appointed, regardless of income, unless  
14 counsel is retained for the juvenile, in any proceeding in which the juvenile is alleged  
15 to be:
- 16        a. Delinquent;  
17        b. A child in need of services; or  
18        c. In need of services or protection if the child is of sufficient age and competency to  
19        assist counsel.
- 20        2. A child may waive the right to counsel in a juvenile delinquency proceeding if the child,  
21 who is fourteen years of age or older and the court has determined the waiver is  
22 knowing, voluntary, and intelligent. The waiver must be made on the record. If a child  
23 waives counsel for a hearing, the child must be informed of the right to revoke the  
24 waiver and request counsel at all subsequent hearings.
- 25        3. Except in the case of undue hardship, the court shall require payment for  
26 reimbursement of counsel appointed pursuant to this section from a person that has  
27 legal care, custody, or control of the child.
- 28        4. A child's parent, legal guardian, or custodian is entitled to counsel upon the filing of an  
29 application for counsel and a determination of indigency. If a party appears without  
30 counsel, the court shall determine whether the party knows the party may be  
31 represented by counsel and that the party is entitled to counsel at public expense if

1 indigent. The court may continue the proceeding to enable a party to obtain counsel. A  
2 child's parent, legal guardian, or custodian determined to be indigent is entitled to  
3 counsel:

4 a. At a detention hearing;

5 b. At the dispositional stage of a juvenile delinquency matter;

6 c. At all proceedings in a child in need of services or protection; or

7 d. In a permanency or review of an order entered in any of the proceedings under  
8 subdivision a, b, or c.

9 5. The child may elect to be represented by counsel for a nonjudicial adjustment.

10 **27-20.2-13. Other basic rights.**

11 1. A party is entitled to the opportunity to introduce evidence and otherwise be heard in  
12 the party's own behalf and to cross-examine adverse witnesses.

13 2. A child charged with a delinquent act need not be a witness against or otherwise  
14 incriminate oneself. An extrajudicial statement, if obtained in the course of violation of  
15 this chapter or which would be constitutionally inadmissible in a criminal proceeding,  
16 may not be used against a child. Evidence illegally seized or obtained may not be  
17 received over objection to establish the allegations made against a child. A confession  
18 validly made by a child out of court is insufficient to support an adjudication of  
19 delinquency unless the confession is corroborated in whole or in part by other  
20 evidence.

21 **27-20.2-14. Orders directed to parents or guardians.**

22 Every parent or guardian has an obligation and must participate in any treatment of the  
23 parent's or guardian's child as ordered by the juvenile court.

24 **27-20.2-15. Indian child welfare - Active efforts and procedures.**

25 1. As used in this section:

26 a. "Active efforts" means affirmative, active, thorough, and timely efforts intended  
27 primarily to maintain or reunite an Indian child with the child's family. Active efforts  
28 are required if the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901  
29 through 1963] applies or may apply, including during the verification process. If  
30 an agency is involved in the child-custody proceeding, active efforts must involve  
31 assisting the parent or parents or Indian custodian through the steps of a case

1 plan and with accessing or developing the resources necessary to satisfy the  
2 case plan. To the maximum extent possible, active efforts should be provided in a  
3 manner consistent with the prevailing social and cultural conditions and way of  
4 life of the Indian child's tribe and should be conducted in partnership with the  
5 Indian child and the Indian child's parents, extended family members, Indian  
6 custodians, and tribe. Active efforts are to be tailored to the facts and  
7 circumstances of the case. The term includes:

8 (1) Conducting a comprehensive assessment of the circumstances of the  
9 Indian child's family, with a focus on safe reunification as the most desirable  
10 goal, with ongoing timely assessment to determine if the threat is resolved  
11 and placement of the child can be returned to the custodian;

12 (2) Identifying appropriate services and helping the parents to overcome  
13 barriers, including actively assisting the parents in obtaining such services;

14 (3) Identifying, notifying, and inviting representatives of the Indian child's tribe to  
15 participate in providing support and services to the Indian child's family and  
16 in family team meetings, permanency planning, and resolution of placement  
17 issues;

18 (4) Conducting or causing to be conducted a diligent search for the Indian  
19 child's extended family members, and contacting and consulting with  
20 extended family members to provide family structure and support for the  
21 Indian child and the Indian child's parents;

22 (5) Offering and employing available and culturally appropriate family  
23 preservation strategies and facilitating the use of remedial and rehabilitative  
24 services provided by the child's tribe;

25 (6) Taking steps to keep siblings together whenever possible;

26 (7) Supporting regular visits with parents or Indian custodians in the most  
27 natural setting possible as well as trial home visits of the Indian child during  
28 any period of removal, consistent with the need to ensure the health, safety,  
29 and welfare of the child;

30 (8) Identifying community resources including housing, financial, transportation,  
31 mental health, substance abuse, and peer support services and actively

1 assisting the Indian child's parents or, if appropriate, the child's family, in  
2 utilizing and accessing those resources;

3 (9) Monitoring progress and participation in services;

4 (10) Considering alternative ways to address the needs of the Indian child's  
5 parents and if appropriate, the family, if the optimum services do not exist or  
6 are not available; and

7 (11) Providing post-reunification services and monitoring.

8 b. "Extended family member" means a relationship defined by the law or custom of  
9 the Indian child's tribe or, in the absence of such law or custom, means an  
10 individual who has reached the age of eighteen and who is the Indian child's  
11 grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece  
12 or nephew, first or second cousin, or stepparent.

13 c. "Indian" means an individual who is a member of an Indian tribe, or who is a  
14 native and a member of a regional corporation as defined in 43 U.S.C.1606.

15 d. "Indian child" means an unmarried individual who is under the age of eighteen  
16 and is either a member of an Indian tribe or is eligible for membership in an  
17 Indian tribe and is the biological child of a member of an Indian tribe.

18 e. "Indian child's tribe" means the Indian tribe in which an Indian child is a member  
19 or eligible for membership or, in the case of an Indian child who is a member of or  
20 eligible for membership in more than one tribe, the Indian tribe with which the  
21 Indian child has the more significant contacts.

22 f. "Indian custodian" means any Indian individual who has legal custody of an  
23 Indian child under tribal law or custom or under state law or to whom temporary  
24 physical care, custody, and control has been transferred by the parent of the  
25 child.

26 g. "Indian tribe" means an Indian tribe, band, nation, or other organized Indian  
27 group or community of Indians recognized as eligible for services provided to  
28 Indians by the United States secretary of the interior because of their status as  
29 Indians, including any Alaska native village as defined in 43 U.S.C.1602(c).

30 h. "Parent" means any biological parent or parents of an Indian child or any Indian  
31 individual who has lawfully adopted an Indian child, including adoptions under

1                   tribal law or custom. The term does not include the unwed father if paternity has  
2                   not been acknowledged or established.

3                   i. "Termination of parental rights" means any action resulting in the termination of  
4                   the parent-child relationship. The term does not include a placement based upon  
5                   an act by an Indian child which, if committed by an adult, would be deemed a  
6                   crime or a placement upon award of custody to one of the child's parents in a  
7                   divorce proceeding.

8                   2. Before removal of an Indian child from the custody of a parent or Indian custodian for  
9                   purposes of involuntary foster care placement or the termination of parental rights over  
10                  an Indian child, the court shall find that active efforts have been made to provide  
11                  remedial services and rehabilitative services designed to prevent the breakup of the  
12                  Indian family and that these efforts have proved unsuccessful. The court may not  
13                  order the removal unless evidence of active efforts shows there has been a vigorous  
14                  and concerted level of casework beyond the level that would constitute reasonable  
15                  efforts under section 27-20.3-28. Reasonable efforts may not be construed to be  
16                  active efforts. Active efforts must be made in a manner that takes into account the  
17                  prevailing social and cultural values, conditions, and way of life of the Indian child's  
18                  tribe. Active efforts must utilize the available resources of the Indian child's extended  
19                  family, tribe, tribal and other relevant social service agencies, and individual Indian  
20                  caregivers.

21                  3. The court may order the removal of the Indian child for involuntary foster case  
22                  placement only if the court determines, by clear and convincing evidence, that  
23                  continued custody of the child by the parent or Indian custodian is likely to result in  
24                  serious emotional or physical damage or harm to the child. Evidence must show a  
25                  causal relationship between the particular conditions in the home and the likelihood  
26                  that continued custody of the child will result in serious emotional or physical damage  
27                  or harm to the particular child who is the subject of the proceeding. Poverty, isolation,  
28                  custodian age, crowded or inadequate housing, substance use, or nonconforming  
29                  social behavior does not by itself constitute clear and convincing evidence of imminent  
30                  serious emotional or physical damage or harm to the child. As soon as the threat has  
31                  been removed and the child is no longer at risk, the state should terminate the

1 removal, by returning the child to the parent while offering a solution to mitigate the  
2 situation that gave rise to the need for emergency removal and placement.

3 4. The court may only order the termination of parental rights over the Indian child if the  
4 court determines, by evidence beyond a reasonable doubt, that continued custody of  
5 the child by the parent or Indian custodian is likely to result in serious emotional or  
6 physical damage or harm to the child.

7 5. In considering whether to involuntarily place an Indian child in foster care or to  
8 terminate the parental rights of the parent of an Indian child, the court shall require that  
9 a qualified expert witness must be qualified to testify regarding whether the child's  
10 continued custody by the parent or Indian custodian is likely to result in serious  
11 emotional or physical damage or harm to the child and should be qualified to testify as  
12 to the prevailing social and cultural standards of the Indian child's tribe. An individual  
13 may be designated by the Indian child's tribe as being qualified to testify to the  
14 prevailing social and cultural standards of the Indian child's tribe. The court or any  
15 party may request the assistance of the Indian child's tribe or the bureau of Indian  
16 affairs office serving the Indian child's tribe in locating individuals qualified to serve as  
17 expert witnesses. The social worker regularly assigned to the Indian child may not  
18 serve as a qualified expert witness in child-custody proceedings concerning the child.  
19 The qualified expert witness should be someone familiar with the particular child and  
20 have contact with the parents to observe interaction between the parents, child, and  
21 extended family members. The child welfare agency and courts should facilitate  
22 access to the family and records to facilitate accurate testimony.

23 **27-20.2-16. Substance use programming.**

- 24 1. If a child is subject to nonjudicial adjustments under this chapter and is found to be  
25 delinquent under section 27-20.4-16, or is found to be in need of services or protection  
26 under section 27-20.3-16, the juvenile court may require a substance use screening  
27 and subsequent programming to appropriately address:
- 28 a. A child who is found to have violated section 39-08-01 or equivalent; or
  - 29 b. If a child is found to have an alcohol concentration of at least two one-hundredths  
30 of one percent by weight at the time of performance of a test within two hours  
31 after driving or being in physical control of a motor vehicle.

1       2. If a child is subject to informal adjustment under this chapter and is required to  
2       participate in the twenty-four seven sobriety program, the period of participation may  
3       not exceed six months.

4       3. If a child required to participate in the twenty-four seven sobriety program under this  
5       section fails to comply with program requirements without being excused, the testing  
6       site shall notify the juvenile court and refer the child to the juvenile court for further  
7       disposition. The child may not be detained or otherwise taken into custody without  
8       authorization from the juvenile court.

9       4. If the juvenile court requires the child to participate in a juvenile drug court program,  
10      the juvenile court may waive the participation in the twenty-four seven sobriety  
11      program requirements of this section.

12      **27-20.2-17. Order of adjudication - Noncriminal.**

13      1. An order of disposition or other adjudication in a proceeding under this chapter is not a  
14      conviction of crime and does not impose any civil disability ordinarily resulting from a  
15      conviction or operate to disqualify the child in any civil service application or  
16      appointment. A child may not be committed or transferred to a penal institution or other  
17      facility used primarily for the execution of sentences of individuals convicted of a  
18      crime.

19      2. The disposition of a child and evidence adduced in a hearing in juvenile court may not  
20      be used against the child in any proceeding in any court other than a juvenile court,  
21      whether before or after reaching majority, except for impeachment or in dispositional  
22      proceedings after conviction of a felony for the purposes of a presentence  
23      investigation and report.

24      **27-20.2-18. Rights and duties of legal custodian.**

25      1. As used in this section, "sibling of the child entering foster care" means:  
26      a. A brother or sister who has at least one biological or adoptive parent in common;  
27      b. A fictive brother or sister with a significant bond as identified by the child or  
28      parent; or  
29      c. A child who would have been considered a sibling but for the termination or other  
30      disruption of parental rights, including a death of a parent.

31      2. A legal custodian has:

- 1           a. The right to the physical custody of the child and the right to determine the nature  
2           of the care, placement, and treatment of the child, including ordinary medical  
3           care as well as medical or surgical treatment for a serious physical condition or  
4           illness that in the opinion of a licensed physician requires prompt treatment,  
5           except for any limits the court may impose.
- 6           b. The right and duty to provide for the care, protection, training, and education and  
7           the physical, mental, and moral welfare of the child, subject to the conditions and  
8           limitations of the order and to the remaining rights and duties of the child's  
9           parents or guardian.
- 10          c. A duty within thirty days after the removal of a child from the custody of the  
11          parent or parents of the child for the purpose of placement into foster care, to  
12          exercise due diligence to identify and provide notice to the following relatives: all  
13          parents of a sibling of the child entering foster care who have legal custody of the  
14          sibling, all adult grandparents, and any other adult suggested by the parents,  
15          subject to exceptions due to family or domestic violence, that:
- 16           (1) Specifies that the child has been or is being removed from the custody of  
17           the parent or parents of the child;
- 18           (2) Explains the options the relative has under federal, state, and local law to  
19           participate in the care and placement of the child, including any options that  
20           may be lost by failing to respond to the notice;
- 21           (3) Describes the requirements and standards to become a foster family home  
22           and the additional services and supports that are available for children  
23           placed in that home; and
- 24           (4) Describes how the relative of the child may enter an agreement with the  
25           department of human services and human service zone to receive a  
26           subsidized guardianship payment.

27           **27-20.2-19. Guardian ad litem - Immunity.**

28           The court at any stage of a proceeding under this chapter, on application of a party or on  
29           motion of the court, shall appoint a guardian ad litem for a child who is a party to the proceeding  
30           if the child has no parent, guardian, or custodian appearing on the child's behalf or the interests  
31           of the parent, guardian, or custodian conflict with the child's or in any other case in which the



1 interests of the child require a guardian. A party to the proceeding or that party's employee or  
2 representative may not be appointed. A guardian ad litem appointed under this section is  
3 immune from civil liability for damages for any act or omission arising out of that individual's  
4 duties and responsibilities as a guardian ad litem, unless the act or omission constitutes gross  
5 or willful negligence or gross or willful misconduct.

6 **27-20.2-20. Costs and expenses for care of child.**

- 7 1. The following expenses are a charge upon the funds of the county or human service  
8 zone upon certification of the expenses by the court:
- 9 a. The cost of medical and other examinations and treatment of a child ordered by  
10 the court.
  - 11 b. The cost of care and support of a child committed by the court to the legal  
12 custody of a public agency other than an institution for delinquent children or to a  
13 private agency or individual other than a parent.
  - 14 c. The cost of any necessary transportation for medical and other examinations and  
15 treatment of a child ordered by the court unless the child is in the legal custody of  
16 a state agency.
  - 17 d. The cost of a guardian ad litem under subsection 5 of section 27-20.1-16 or  
18 section 30.1-27-06 or the cost of an attorney under subsection 6 of section  
19 27-20.1-16 if the court finds the parent's or child's estate is insufficient to meet  
20 the cost.
- 21 2. The commission on legal counsel for indigents shall pay reasonable compensation for  
22 services and related expenses of counsel provided at public expense for a party and  
23 the supreme court shall pay reasonable compensation for a guardian ad litem. The  
24 attorney general shall pay the witness fees, mileage, and travel expense of witnesses  
25 incurred in the proceedings under this chapter in the amount and at the rate provided  
26 for in section 31-01-16, except the commission on legal counsel for indigents shall pay  
27 the witness fees, mileage, and travel expenses of witnesses subpoenaed by counsel  
28 employed by or contracted with the commission for proceedings under this chapter in  
29 the amount and at the rate provided for in section 31-01-16. Expenses of the state  
30 include the cost of any necessary transportation for medical and other examinations  
31 and treatment of a child ordered by the court if the child is in the legal custody of a

1 state agency in which case the cost must be reimbursed to the county or human  
2 service zone by that state agency at the state mileage rate, excluding meals and  
3 lodging, plus twenty-nine cents per mile.

4 3. If, after due notice to the parents or other persons legally obligated to care for and  
5 support the child, and to a child over the age of eighteen, and after affording the  
6 parents, other persons, and children over eighteen years of age an opportunity to be  
7 heard, the court finds that the parents, other persons, or a child over eighteen years of  
8 age is financially able to pay all or part of the costs and expenses stated in  
9 subsection 1, and expenses payable by the supreme court under subsection 2, the  
10 court may order the party to pay the same and prescribe the manner of payment.  
11 Unless otherwise ordered, payment shall be made to the clerk of court for remittance  
12 to the person to which compensation is due, or if the costs and expenses have been  
13 paid by the county, human service zone, or the state to the county treasurer of the  
14 county, the county treasurer of the host county, or to the state treasurer.

15 4. Unless the court finds there is no likelihood the party is or will be able to pay attorney's  
16 fees and expenses, the court, in the order or judgment following a hearing under this  
17 chapter, shall order the parents or other persons legally obligated to care for and  
18 support the child, and the child if over the age of eighteen, to reimburse the presumed  
19 amount of indigent defense costs and expenses, as determined by the commission on  
20 legal counsel for indigents, and shall notify the party of the right to a hearing on the  
21 reimbursement amount. If the party or the state requests a hearing within thirty days of  
22 receiving notice under this subsection, the court shall schedule a hearing at which the  
23 actual amount of attorney's fees and expenses must be shown. In determining the  
24 amount of reimbursement and method of payment, the court shall consider the  
25 financial resources of the party and the nature of the burden that reimbursement of  
26 costs and expenses will impose.

27 5. A party who is required to reimburse indigent defense costs and expenses and who is  
28 not willfully in default in that reimbursement may at any time petition the court to waive  
29 reimbursement of all or any portion of the attorney's fees and expenses. If the court is  
30 satisfied reimbursement of the amount due will impose undue hardship on the party or

1           the party's immediate family, the court may waive reimbursement of all or any portion  
2           of the amount due or modify the method of payment.

3           **27-20.2-21. Protective order.**

4           At any stage of the proceedings, upon application of a party or on the court's own motion,  
5 the court may make an order restraining or otherwise controlling the conduct of a person if:

6           1. The court finds that the conduct:

7           a. Is or may be detrimental or harmful to the child; or

8           b. Will tend to defeat the execution of an order of disposition; and

9           2. Notice of the application or motion and the grounds for the appropriate motion and an  
10 opportunity to be heard have been given to the person against which the order is  
11 directed.

12           **27-20.2-22. Inspection of court files and records - Penalty.**

13           1. Except as provided in this section, all files and records of the juvenile court, whether in  
14 the office of the clerk of court or juvenile court, of a proceeding under this chapter are  
15 closed to the public. Juvenile court files and records are open to inspection only by:

16           a. The judge and staff of the juvenile court.

17           b. The parties to the proceeding or the parties' counsel or the guardian ad litem of  
18 any party.

19           c. A public or private agency or institution providing supervision or having custody of  
20 the child under order of the juvenile court which must be given a copy of the  
21 findings and order of disposition when the agency or institution receives custody  
22 of the child.

23           d. Any court and the court's probation and other officials or professional staff and  
24 the attorney for the defendant for use in preparing a presentence report in a  
25 criminal case in which the defendant is convicted and who, before the criminal  
26 case, had been a party to the proceeding in juvenile court.

27           e. The professional staff of the uniform crime victims compensation program if  
28 necessary for the discharge of the duties of the staff pursuant to chapter 54-23.4.

29           f. A staff member of the division of children and family services of the department of  
30 human services or a law enforcement officer if necessary for the performance of  
31 that staff member's duties under section 50-11.1-06.2 or the federal National

1 Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119  
2 et seq.].

3 g. An employee or agent of the department of human services if necessary for  
4 performance of that individual's duty under chapter 50-11 or 50-11.1 to  
5 investigate the background of an individual living or working in the facility, home,  
6 or residence for which licensure is sought.

7 h. A criminal justice agency if the juvenile is required to register under section  
8 12.1-32-15.

9 i. The staff of a children's advocacy center if the juvenile or a victim of the child has  
10 been referred for or has received services at the children's advocacy center.

11 j. A victim of the delinquent child or the victim's guardian. All records including  
12 medical, educational, and school information must be redacted before inspection.  
13 For purposes of this subdivision, only records pertaining to the specific offense  
14 between the victim and the delinquent child may be inspected.

15 2. Juvenile court files and records are also open to inspection with written leave of a  
16 juvenile court judge or judicial referee to whom juvenile court matters have been  
17 referred:

18 a. Upon a showing in writing of a legitimate interest in a proceeding or in the work of  
19 the juvenile court, but only to the extent necessary to respond to the legitimate  
20 interest; and

21 b. By the principal of any public or private school that is a member of the North  
22 Dakota high school activities association, or the superintendent of any school  
23 district that has one or more schools involved in the association, but only to the  
24 extent necessary to enforce the rules and regulations of the North Dakota high  
25 school activities association.

26 3. In a proceeding under this chapter, if the juvenile court finds a child is in need of  
27 services or committed a delinquent act that constitutes a violation of a law or local  
28 ordinance governing the operation of a motor vehicle or a delinquent act of  
29 manslaughter or negligent homicide caused by the child's operation of a motor vehicle,  
30 the juvenile court shall report the finding to the director of the department of  
31 transportation within ten days.

- 1       4. Following an adjudication of delinquency for an offense that would be a felony if  
2       committed by an adult, the child's school principal, chief administrative officer, or  
3       designated school guidance counselor, if requested, must be allowed access to the  
4       disposition order. Any other juvenile court files and records of a child may be disclosed  
5       to a superintendent or principal of the school in which the child is currently enrolled or  
6       in which the child wishes to enroll if the child's documented behavior appears to  
7       present a danger to self or to the students or staff of the school.
- 8       5. Following an adjudication of delinquency for an offense that results in the prohibitions  
9       included in subsection 1 or 2 of section 62.1-02-01, if requested, a law enforcement  
10      officer must be allowed access to the disposition order.
- 11      6. The juvenile court may notify a referring agency of the disposition of a case.
- 12      7. Notwithstanding that juvenile court records are closed to the public, nothing in this  
13      section may be construed to limit the release upon request of general information not  
14      identifying the identity of any juvenile, witness, or victim in any proceeding under this  
15      chapter. Files in the clerk of court's office are open to public inspection if the related  
16      hearing was open to the public under section 27-20.3-14.
- 17      8. To the extent necessary to provide victim services or benefits under chapter 12.1-41,  
18      the judge and staff of the juvenile court may disclose information to refer a child, who  
19      may be a victim of human trafficking, to a program for runaway and homeless children  
20      located in the state and approved by the juvenile court of jurisdiction. Information  
21      disclosed under this subsection must remain confidential.
- 22      9. An individual with access or authorization to inspect juvenile court files and records  
23      under this section may not share the information contained in the files and records  
24      with any other person not authorized by law. An individual who violates this subsection  
25      is guilty of a class B misdemeanor.

26      **27-20.2-23. Disclosure of information needed to apprehend child.**

27      Notwithstanding any other provision of law, the name, photographs, fingerprints, or other  
28      identifying information of a child who is alleged to have committed a delinquent act involving  
29      actual or threat of serious bodily injury which would constitute a felony if committed by an adult  
30      or who left without authorization from a secure detention facility may be released by law.

1 enforcement, the division of juvenile services, or the juvenile court for purposes of  
2 apprehending the child.

3 **27-20.2-24. Law enforcement and correctional facility records.**

- 4 1. Unless a charge of delinquency is transferred for criminal prosecution under section  
5 27-20.4-20, the interest of national security requires, or the court otherwise orders in  
6 the interest of the child, the law enforcement and correctional facility records and files  
7 of a child alleged or found to be delinquent or in need of services or protection are not  
8 open to public inspection; but inspection of these records and files is permitted by:
- 9 a. A juvenile court having the child before the court in any proceeding;
  - 10 b. Counsel for a party to the proceeding;
  - 11 c. The officers of public institutions or agencies to whom the child is or may be  
12 committed;
  - 13 d. Law enforcement officers of other jurisdictions if necessary for the discharge of  
14 official duties of the officers;
  - 15 e. A court in which the child is convicted of a criminal offense for the purpose of a  
16 presentence report or other dispositional proceeding, or by officials of correctional  
17 facilities to which the child is detained or committed, or by the parole board, the  
18 governor, or the pardon advisory board, if one has been appointed, in considering  
19 the child's parole or discharge or in exercising supervision over the child;
  - 20 f. The professional staff of the uniform crime victims compensation program if  
21 necessary for the discharge of the duties of the professional staff pursuant to  
22 chapter 54-23.4; and
  - 23 g. A superintendent, assistant superintendent, principal, or designee of the school in  
24 which the child is currently enrolled or of a school in which the child wishes to  
25 enroll.
- 26 2. Notwithstanding that law enforcement records and files of a child alleged or found to  
27 be delinquent or in need of services or protection are not open to public inspection,  
28 this section does not limit the release of general information that does not identify the  
29 identity of the child.

1        **27-20.2-25. Children's fingerprints, photographs.**

- 2        1. A child under fourteen years of age may not be fingerprinted in the investigation of a  
3        crime except as provided in this section. Fingerprints of a child who is referred to the  
4        court may be taken and filed by law enforcement officers in investigating the  
5        commission of the following crimes: murder, manslaughter, gross sexual imposition,  
6        robbery, aggravated assault, burglary, theft, forgery, and unlawful possession or use of  
7        a handgun.
- 8        2. Fingerprint files of children must be kept separate from those of adults. Copies of  
9        fingerprints known to be those of a child may be maintained locally and copies may be  
10       sent to a central state depository but may not be sent to a federal depository unless  
11       needed in the interest of national security.
- 12       3. Fingerprint files of children may be inspected by law enforcement officers if necessary  
13       for the discharge of official duties of law enforcement officers. Other inspections may  
14       be authorized by the court in individual cases upon a showing it is necessary in the  
15       public interest.
- 16       4. Fingerprints of a child are considered a part of the child's juvenile or adult investigative  
17       file and must be removed from the state and local files and destroyed in accordance  
18       with section 27-20.2-26.
- 19       5. If latent fingerprints are found during the investigation of an offense and a law  
20       enforcement officer has probable cause to believe the latent fingerprints are those of a  
21       particular child, the officer may fingerprint the child regardless of age or offense for  
22       purposes of immediate comparison with the latent fingerprints. If the comparison is  
23       negative, the fingerprint card and other copies of the fingerprints taken must be  
24       destroyed immediately. If the child is not referred to the court, the fingerprints must be  
25       destroyed immediately.
- 26       6. A child may be photographed by a law enforcement officer at the time of arrest for the  
27       crimes of murder, manslaughter, gross sexual imposition, robbery, aggravated assault,  
28       burglary, theft, forgery, or unlawful possession or use of a handgun. The photograph  
29       must be destroyed if the child is not referred to the juvenile court. If a court finds facts  
30       that would justify a finding that a child at least fourteen years of age at the time of the  
31       offense is delinquent and the finding involves the unlawful use or possession of a

1 handgun or the commission of an act proscribed by the criminal laws of this state and  
2 punishable as a felony or a class A misdemeanor committed for the benefit of, at the  
3 direction of, or in association or affiliation with any criminal street gang, with the intent  
4 to promote, further, or assist in the activities of a criminal gang, the juvenile court shall  
5 order upon the request of the state's attorney the taking and retention of a photograph  
6 of the child for purposes of identification. Photographs of children under this  
7 subsection may be maintained on a local basis and sent to a central state depository  
8 but must be maintained separate from those of adults and must be destroyed in  
9 accordance with section 27-20.2-26.

10 **27-20.2-26. Destruction of juvenile court records.**

- 11 1. Except as otherwise required under section 25-03.3-04, all juvenile court records must  
12 be retained and disposed of pursuant to rules and policies established by the North  
13 Dakota supreme court.
- 14 2. Upon the final destruction of a file or record, the proceeding must be treated as if the  
15 proceeding never occurred. The juvenile court shall notify each agency named in the  
16 file or record of the destruction. All index references, except those which may be made  
17 by the attorney general and the directors of the department of transportation, the  
18 department of human services, the department of corrections and rehabilitation, the  
19 commission on legal counsel for indigents and its public defender offices, law  
20 enforcement agencies, and human service zones, must be deleted. Each agency,  
21 except the attorney general and the directors of the department of transportation, the  
22 department of human services, the department of corrections and rehabilitation, the  
23 commission on legal counsel for indigents and its public defender offices, law  
24 enforcement agencies, and human service zones, upon notification of the destruction  
25 of a file or record, shall destroy all files, records, and references to the child's  
26 apprehension, detention, and referral to the juvenile court and any record of  
27 disposition made by the juvenile court. The attorney general, the department of human  
28 services, the department of corrections and rehabilitation, the commission on legal  
29 counsel for indigents and its public defender offices, law enforcement agencies, and  
30 human service zones may not keep a juvenile file or record longer than is required by  
31 the records retention policy of that official, department, or agency. Upon inquiry in any



1 matter the child, the court, and representatives of agencies, except the attorney  
2 general and the directors of the department of transportation, the department of  
3 human services, the department of corrections and rehabilitation, law enforcement  
4 agencies, and human service zones, properly shall reply that no record exists with  
5 respect to the child.

6 **27-20.2-27. Appeals.**

- 7 1. An aggrieved party, including the state or a subdivision of the state, may appeal from a  
8 final order, judgment, or decree of the juvenile court to the supreme court by filing  
9 written notice of appeal within thirty days after entry of the order, judgment, or decree,  
10 or within any further time the supreme court grants, after entry of the order, judgment,  
11 or decree. The appeal must be heard by the supreme court upon the files, records,  
12 and minutes or transcript of the evidence of the juvenile court, giving appreciable  
13 weight to the findings of the juvenile court. The name of the child may not appear on  
14 the record on appeal.
- 15 2. The appeal does not stay the order, judgment, or decree appealed from, but the  
16 supreme court may otherwise order on application and hearing consistent with this  
17 chapter if suitable provision is made for the care and custody of the child. If the order,  
18 judgment, or decree appealed from grants the custody of the child to, or withholds  
19 custody of the child from, one or more of the parties to the appeal, the appeal must be  
20 heard at the earliest practicable time.

21 **27-20.2-28. Rules of court.**

22 The North Dakota supreme court may adopt rules of procedure governing proceedings  
23 under this chapter.

24 **27-20.2-29. In-state placement of juveniles - Exception.**

25 Except for cases in which the specific necessary treatment is unavailable in the state or  
26 cases in which the appropriate treatment or services cannot be provided in a timely manner in  
27 the state, all juveniles in need of residential treatment or residential care placement must be  
28 placed in in-state residential facilities.

29 **SECTION 23.** Chapter 27-20.3 of the North Dakota Century Code is created and enacted  
30 as follows:

1       **27-20.3-01. Definitions.**

2       As used in this chapter:

3       1. "Abandon" means:

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

6           (1) To communicate with the child; or

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

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

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

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

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

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

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

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

21           b. Fails to make substantial, meaningful efforts to secure treatment for the parent's  
22           addiction, mental illness, behavior disorder, or any combination of those  
23           conditions for one year;

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

26           d. Engages in conduct that constitutes one of the following crimes, or of an offense  
27           under the laws of another jurisdiction which requires proof of substantially similar  
28           elements:

29           (1) A violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, or 14-09-22 in  
30           which the victim is another child of the parent;

- 1           (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section  
2           12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the  
3           parent; or
- 4           (3) A violation of section 12.1-17-02 in which the victim is a child of the parent  
5           and has suffered serious bodily injury:
- 6           e. Engages or attempts to engage in conduct, prohibited under sections 12.1-17-01  
7           through 12.1-17-04, in which a child is the victim or intended victim;
- 8           f. In the case of a child age nine or older, has been incarcerated under a sentence  
9           for which the latest release date after the child's age of majority;
- 10          g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or any  
11          controlled substance as defined in chapter 19-03.1 in a manner not lawfully  
12          prescribed by a practitioner; or
- 13          h. Allows the child to be present in an environment subjecting the child to exposure  
14          to a controlled substance, chemical substance, or drug paraphernalia as  
15          prohibited by section 19-03.1-22.2.
- 16          4. "Attendant care" means a nonsecure holdover site for children in need of services who  
17          are in the custody of law enforcement and need constant short-term supervision on a  
18          preadjudicatory basis.
- 19          5. "Child in need of protection" means a child who:
- 20          a. Is without proper parental care or control, subsistence, education as required by  
21          law, or other care or control necessary for the child's physical, mental, or  
22          emotional health, or morals, and the need for services or protection is not due  
23          primarily to the lack of financial means of the child's parents, guardian, or other  
24          custodian;
- 25          b. Has been placed for care or adoption in violation of law;
- 26          c. Has been abandoned by the child's parents, guardian, or other custodian;
- 27          d. Is without proper parental care, control, or education as required by law, or other  
28          care and control necessary for the child's well-being because of the physical,  
29          mental, emotional, or other illness or disability of the child's parent or parents,  
30          and that such lack of care is not due to a willful act of commission or act of  
31          omission by the child's parents, and care is requested by a parent;

- 1           e. Is in need of treatment and whose parents, guardian, or other custodian have  
2           refused to participate in treatment as ordered by the juvenile court;
- 3           f. Was subject to prenatal exposure to chronic or severe use of alcohol or any  
4           controlled substance as defined in chapter 19-03.1 in a manner not lawfully  
5           prescribed by a practitioner;
- 6           g. Is present in an environment subjecting the child to exposure to a controlled  
7           substance, chemical substance, or drug paraphernalia as prohibited by section  
8           19-03.1-22.2; or
- 9           h. Is a victim of human trafficking as defined in title 12.1.
- 10       6. "Child in need of services" means a child who:
- 11           a. Is habitually and without justification truant from school subject to compulsory  
12           school attendance and is absent from school without an authorized excuse more  
13           than five days during a school year;
- 14           b. Is habitually disobedient of the reasonable and lawful commands of the child's  
15           parent, guardian, or other custodian and is ungovernable or who is willfully in a  
16           situation dangerous or injurious to the health, safety, or morals of the child or  
17           others;
- 18           c. Has committed an offense applicable only to a child, except for an offense  
19           committed by a minor fourteen years of age or older under subsection 2 of  
20           section 12.1-31-03 or an equivalent local ordinance or resolution;
- 21           d. Has committed an offense in violation of minor in consumption or minor in  
22           possession in violation of section 5-01-08; or
- 23           e. Is under the age of fourteen years and has purchased, possessed, smoked, or  
24           used tobacco, a tobacco-related product, an electronic smoking device, or an  
25           alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As  
26           used in this subdivision, "electronic smoking device" and "alternative nicotine  
27           product" have the same meaning as in section 12.1-31-03; and
- 28           f. In any of the foregoing instances is in need of treatment or rehabilitation.
- 29       7. "Custodian" means a person, other than a parent or legal guardian, which stands in  
30       loco parentis to the child and a person to which legal custody of the child has been  
31       given by order of a court.

- 1       8. "Diversion" means an intervention strategy that redirects a child away from formal  
2       processing in the juvenile justice system, while still holding the child accountable for  
3       that child's actions.
- 4       9. "Fit and willing relative or other appropriate individual" means a relative or other  
5       individual who has been determined, after consideration of an assessment that  
6       includes a criminal history record investigation under chapter 50-11.3, to be a qualified  
7       individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a  
8       legal guardian.
- 9       10. "Home" as used in the phrase "to return home" means the abode of the child's parent  
10       with whom the child formerly resided.
- 11       11. "Human service zone" means a county or consolidated group of counties  
12       administering human services within a designated area in accordance with an  
13       agreement or plan approved by the department of human services.
- 14       12. "Permanency hearing" means a hearing, conducted with respect to a child who is in  
15       foster care, to determine the permanency plan for the child which includes the  
16       following:
- 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. Whether and, if applicable, to place siblings in the same foster care, relative,  
23       guardianship, or adoptive placement, unless it is determined that the joint  
24       placement would be contrary to the safety or well-being of any of the siblings.
- 25       e. Whether and, if applicable, in the case of siblings removed from the home of the  
26       siblings who are not jointly placed, to provide for frequent visitation or other  
27       ongoing interaction between the siblings, unless it is determined to be contrary to  
28       the safety or well-being of any of the siblings.
- 29       f. In cases in which a compelling reason has been shown that it would not be in the  
30       child's best interests to return home, to have parental rights terminated, to be  
31       placed for adoption, to be placed with a fit and willing relative, or to be placed

- 1           with a legal guardian, whether and, if applicable, when the child, aged sixteen or  
2           older, will be placed in another planned permanent living arrangement. The court  
3           shall:
- 4           (1) Ask the child whether the child has a desired permanency outcome of  
5           another planned permanent living arrangement;
- 6           (2) Make a judicial determination explaining why another planned permanent  
7           living arrangement is the best permanency plan for the child; and
- 8           (3) Identify the compelling reasons it continues not to be in the best interest of  
9           the child to return home, be placed for adoption, be placed with a legal  
10          guardian, or be placed with a fit and willing relative.
- 11          g. In the case of a child who has been placed in foster care outside the state in  
12          which the home of the parents is located, or if the parents maintain separate  
13          homes, outside the state in which the home of the parent who was the child's  
14          primary caregiver is located, whether out-of-state placements have been  
15          considered. If the child is currently in an out-of-state placement, the court shall  
16          determine whether the placement continues to be appropriate and in the child's  
17          best interests.
- 18          h. In the case of a child who has attained age fourteen, the services needed to  
19          assist the child to make the transition to successful adulthood.
- 20          13. "Qualified residential treatment programs" mean residential child care facilities that  
21          provide a higher level of care which must use a trauma-informed treatment model and  
22          employ registered or licensed nursing staff and other licensed clinical staff to meet the  
23          treatment needs of children in out-of-home placement.
- 24          14. "Referral" means a written report submitted to the director of juvenile court or the  
25          director of the human service zone concerning delinquent behavior without an arrest  
26          or taking into custody having occurred and the child remains in the parental home to  
27          be notified of any action taken by the director as authorized in this chapter.
- 28          15. "Relative" means:
- 29          a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt,  
30          uncle, great-uncle, nephew, niece, or first cousin;

- 1           b. An individual with a relationship to the child, derived through a current or former
- 2                 spouse of the child's parent, similar to a relationship described in subdivision a;
- 3           c. An individual recognized in the child's community as having a relationship with
- 4                 the child similar to a relationship described in subdivision a; or
- 5           d. The child's stepparent.

6       16. "Shelter care" means temporary care of a child in physically unrestricted facilities.

7       **27-20.3-02. Jurisdiction.**

8       Jurisdiction as set forth in section 27-20.2-03 is applicable to this chapter.

9       **27-20.3-03. Venue.**

10       Except as otherwise provided by this section, a proceeding under this chapter must be  
11 commenced in the county in which the child resides. If the need for services or protection are  
12 alleged, the proceeding may be brought in the county in which the child is present at the time  
13 the proceeding is commenced, the county in which the child has resided for the majority of the  
14 thirty days before the date of the alleged need for services or protection, or the county in which  
15 the alleged need for services or protection has occurred. The court shall determine the  
16 appropriate venue for a child in need of services or a child in need of protection based on the  
17 best interest of the child.

18       **27-20.3-04. Powers and duties of director of juvenile court.**

- 19       1. For the purpose of carrying out the objectives and purposes of this chapter and  
20       subject to the limitations of this chapter or imposed by the court, a director shall:
  - 21       a. Make investigations, reports, and recommendations to the juvenile court.
  - 22       b. Receive and examine referrals of a child in need of services or child in need of  
23       protection for the purpose of considering the commencement of proceedings  
24       under this chapter.
  - 25       c. Make a determination upon intake of referrals regarding the appropriate manner  
26       to handle delinquent conduct, a child in need of services, or a child in need of  
27       protection by use of nonjudicial commencement of proceedings under this  
28       chapter.
  - 29       d. Supervise and assist a child placed on probation for a child in need of services.
  - 30       e. Make appropriate referrals to other private or public agencies of the community if  
31       their assistance appears to be needed or desirable.

- 1           f. Issue a temporary custody order concerning a child who is referred to the  
2           director's supervision or care as a child in need of services or a child in need of  
3           protection. Except as provided by this chapter, a director does not have the  
4           powers of a law enforcement officer.
- 5           g. Take acknowledgments of instruments for the purpose of this chapter.
- 6           h. Make such temporary order not to exceed ninety-six hours for the custody and  
7           control of a child alleged to be in need of services or protection as may be  
8           deemed appropriate. The order must be reduced to writing within twenty-four  
9           hours, excluding holidays and weekends.
- 10          i. Perform all other functions designated by this chapter or under section 27-05-30  
11          or by order of the court, including, if qualified, those of a referee.
- 12          j. Issue an order to a law enforcement authority to transport a child to and from a  
13          specified location.
- 14          k. Receive and examine requests for review of a child's placement at a qualified  
15          residential treatment program under the Family First Prevention Services Act  
16          [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
- 17          2. Any of the foregoing functions may be performed in another state if authorized by the  
18          court of this state and permitted by the laws of the other state.

19          **27-20.3-05. Method of making a child in need of services referral.**

- 20          1. A referral alleging a child is a child in need of services may be made by a parent,  
21          guardian or other custodian, a law enforcement officer, a school official, or any other  
22          person that has knowledge of the facts alleged and believes such facts are true.
- 23          2. A referral alleging that a child is a child in need of services under subdivision a, b, c, e,  
24          or f of subsection 4 of section 27-20.2-01 must be sent to the applicable human  
25          service zone.
- 26          3. A referral alleging a child is a child in need of services under subdivision d of  
27          subsection 4 of section 27-20.2-01 must be sent to the juvenile court.
- 28          4. The referral must be set forth in writing and must set forth the following:
  - 29               a. The name, date of birth, and residence address of the child alleged to be a child  
30               in need of services;



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

23        **27-20.3-06. Taking into protective custody.**

- 24        1. A child alleged to be in need of protection may be taken into protective custody:
- 25           a. Pursuant to an order of the court under this chapter;
- 26           b. By a law enforcement officer if there are reasonable grounds to believe:
- 27                 (1) The child is suffering from illness or injury or is in immediate danger from
- 28                 the child's surroundings, and the child's removal is necessary; or
- 29                 (2) The child has run away from the child's parents, guardian, or other
- 30                 custodian; or
- 31           c. By order of the director made pursuant to section 27-20.3-04.

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

4       3. A law enforcement officer shall transport a child to and from attendant care.

5       4. Without a compelling reason to the contrary, a court order transferring a child into  
6       custody must provide a reasonable period of time to facilitate a beneficial transition for  
7       the child and other parties involved.

8       **27-20.3-07. Shelter care of child.**

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

15      **27-20.3-08. Release of delivery to court.**

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

18      a. Release the child to the child's parent, guardian, custodian, or other responsible  
19      adult able and willing to assume custody of the child, upon that person's promise  
20      to bring the child before the court if requested by the court, unless the child's  
21      shelter care is warranted or required; or

22      b. Bring the child before the court or deliver the child to a shelter care facility  
23      designated by the court or to a medical facility if the child is believed to suffer  
24      from a serious physical condition or illness that requires prompt treatment. The  
25      person taking the child into custody promptly shall give notice of taking the child  
26      into custody, together with a statement of the reason for taking the child into  
27      custody, to a parent, guardian, or other custodian and to the court. Any  
28      questioning of the child necessary to comply with this subdivision must conform  
29      to the procedures and conditions prescribed by this chapter and rules of court.

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

4       3. If the petition is not filed, the child must be released from shelter care.

5       **27-20.3-09. Place of shelter care.**

6       A child alleged to be in need of shelter care may be placed only in:

7       1. A licensed foster home or a home approved by the court;

8       2. A facility operated by a licensed child welfare agency; or

9       3. Any other suitable place or facility, including a medical facility for the treatment of  
10      mental illness, alcoholism, or drug addiction, designated by the court.

11      **27-20.3-10. Release from shelter care - Hearing - Conditions of release.**

12      1. If a child is brought before the court or delivered to a shelter care facility designated by  
13      the court, the director, the intake officer, or other authorized officer of the court  
14      immediately shall make an investigation and release the child unless it appears that  
15      the child's shelter care is warranted or required under section 27-20.3-07.

16      2. If the child is not released, a judge or referee shall hold a shelter care hearing  
17      promptly and not later than ninety-six hours after the child is placed in shelter care to  
18      determine whether there is probable cause to believe that the child is in need of  
19      services or protection and whether the child's shelter care is required under section  
20      27-20.3-07. Reasonable notice, either oral or written, stating the time, place, and  
21      purpose of the shelter care hearing must be given to the child and, if able to be found,  
22      to the child's parents, guardian, or other custodian. Before the commencement of the  
23      hearing, the court shall inform the parties of the rights of the parties to counsel and to  
24      counsel at public expense if the parties are indigent, and of the child's right to remain  
25      silent with respect to any allegations of delinquent conduct or any allegations the child  
26      is in need of services.

27      3. If continued shelter care is required, the judge or referee may order that the child be  
28      kept in shelter care for no more than sixty days from the date of the shelter care.

29      4. As a condition to the child's release from shelter care, the court may order a parent,  
30      guardian, custodian, or any other member of the household in which the child resides  
31      to vacate the child's residence if probable cause exists to believe that the parent,

1 guardian, custodian, or other member of the household has committed a sexual  
2 offense with or against the child, pursuant to sections 12.1-20-03 through 12.1-20-07  
3 or section 12.1-20-11, and the presence of the alleged sexual offender in the child's  
4 residence presents a danger to the child's life or physical, emotional, or mental health.  
5 The court may order that the parent, guardian, or custodian not allow contact with an  
6 identified person if the court determines the order is in the best interests of the child.

7 5. If the child is not released and a parent, guardian, or custodian has not been notified  
8 of the hearing, did not appear or waive appearance at the hearing, and files an  
9 affidavit showing these facts, the court shall rehear the matter without unnecessary  
10 delay and order the child's release, unless it appears from the hearing that the child's  
11 shelter care is required under section 27-20.3-07.

12 **27-20.3-11. Diversion.**

- 13 1. A child in need of services may be diverted.  
14 2. A child in need of services as a result of a minor in consumption or minor in  
15 possession may receive an informal adjustment.  
16 3. A child who is contesting a charge of minor in possession or minor in consumption  
17 may receive a formal petition under chapter 27-20.4.

18 **27-20.3-12. Petition - Preliminary determination.**

19 A petition alleging that a child is in need of protection under this chapter must be reviewed  
20 by the juvenile director or the court, or other person authorized by the court to determine  
21 whether the filing of the petition is in the best interest of the public and the child.

22 **27-20.3-13. Petition - Who may prepare and file - Review.**

23 A petition alleging a child in need of protection must be prepared, filed, and served upon the  
24 parties by the state's attorney. A petition may also be prepared by any other person, including a  
25 law enforcement officer, which has knowledge of the facts alleged or is informed and believes  
26 the facts are true. A petition prepared by any person other than a state's attorney may not be  
27 filed unless the director or the court has determined the filing of the petition is in the best  
28 interest of the public and the child.

29 **27-20.3-14. Conduct of child in need of protection hearings.**

- 30 1. A hearing under this chapter must be conducted by the court in accordance with the  
31 rules of North Dakota juvenile procedure.

- 1       2. If the hearing has not been held within the time limit, or any extension of the time limit,  
2           required by supreme court rule, the petition must be dismissed.
- 3       3. The state's attorney shall present the evidence in support of any allegations of the  
4           petition not admitted and otherwise conduct the proceedings on behalf of the state.
- 5       4. Except for informal adjustments under section 27-20.2-09, the proceedings must be  
6           recorded by stenographic notes or by electronic, mechanical, or other appropriate  
7           means.
- 8       5. Juvenile court hearings are closed to the public even if the purpose of the hearing is to  
9           declare a person in contempt of court. The general public must be excluded from other  
10          hearings under this chapter. In hearings from which the general public is excluded,  
11          only the parties, counsel of the parties, witnesses, victims, and any other persons the  
12          court finds have a proper interest in the proceedings may be admitted by the court.  
13          The court may temporarily exclude the child or other person from the hearing if, after  
14          being warned by the court that disruptive conduct will cause removal from the  
15          courtroom, the child or other person persists in conduct that justifies removal from the  
16          courtroom.

17       **27-20.3-15. Adjudication.**

- 18       1. If the court finds from clear and convincing evidence that the child is in need of  
19           services or protection, the court shall proceed immediately or at a postponed hearing  
20           to make a proper disposition of the case.
- 21       2. After hearing the evidence on the petition, the court shall make and file findings as to  
22           whether the child is in need of protection. The findings must be prepared, filed, and  
23           served on all parties by the state's attorney. If the court finds the child is not in need of  
24           protection, the court shall dismiss the petition and order the child discharged from any  
25           restriction previously ordered in the proceeding.
- 26       3. In hearings under this section, all evidence helpful in determining the questions  
27           presented, including oral and written reports, may be received by the court and relied  
28           upon to the extent of the probative value of the evidence even though not otherwise  
29           competent in the hearing on the petition. The parties or the counsel of the parties must  
30           be afforded an opportunity to examine and controvert written reports so received and

1           to cross-examine individuals making the reports. Sources of confidential information  
2           need not be disclosed.

3           4. On motion of the court or that of a party, the court may continue the hearings under  
4           this section for a reasonable period to receive reports and other evidence bearing on  
5           the disposition. In scheduling investigations and hearings the court shall give priority to  
6           proceedings in which a child has otherwise been removed from the child's home  
7           before an order of disposition has been made.

8           **27-20.3-16. Disposition of a child in need of protection.**

9           1. If a child is found to be a child in need of protection, the court may make any of the  
10           following orders of disposition best suited to the protection and physical, mental, and  
11           moral welfare of the child:

12           a. Permit the child to reside with the child's parents, guardian, or other custodian,  
13           subject to conditions and limitations as the court prescribes, including supervision  
14           as directed by the court for the protection of the child.

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

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

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

21           c. Require the parents, guardian, or other custodian to participate in treatment.

22           d. Appoint a fit and willing relative or other appropriate individual as the child's legal  
23           guardian under section 27-20.1-11.

24           e. In cases in which a compelling reason has been shown that it would not be in the  
25           child's best interests to return home, to have parental rights terminated, to be  
26           placed for adoption, to be placed with a fit and willing relative, or to be placed  
27           with a legal guardian, establish, by order, some other planned permanent living  
28           arrangement.

29           2. Without a compelling reason to the contrary, a court order that transfers the child from  
30           the current protective placement to a parent or other biological family must provide a

1           reasonable period of time to facilitate a beneficial transition for the child and other  
2           parties involved.

3           3. A child in need of protection may not be placed in a residential facility that houses  
4           delinquent children.

5           **27-20.3-17. Disposition of child needing continued foster care services.**

6           1. As used in this section, "child" means an individual between the ages of eighteen and  
7           twenty-one years who is in need of continued foster care services.

8           2. A petition to commence an action under this section must contain information as  
9           required by supreme court rule along with an affidavit either prepared by the  
10           administrative human service zone, as determined by the department of human  
11           services, or prepared by an agency or tribal council of a recognized Indian reservation  
12           in this state.

13           3. The court shall issue a summons upon the filing of a petition and affidavit.

14           4. If a child is in need of continued foster care services as determined by the human  
15           service zone or the department of human services and as set forth in a continued  
16           foster care agreement, the court shall make the following judicial determination:

17           a. That the child is not in need of services or protection or delinquent, but is in need  
18           of continued foster care services;

19           b. That the child will remain in or will return to foster care pursuant to the child's  
20           continued foster care agreement;

21           c. That the child's continued foster care agreement has been willfully entered  
22           between:

23           (1) The human service zone or the department of human services or its agent,  
24           the child, and the foster care provider; or

25           (2) An agency or tribal council of a recognized Indian reservation in the state if  
26           the child is not subject to the jurisdiction of the state, the child, and the  
27           foster care provider;

28           d. That it is in the best interest of the child to remain in or return to foster care;

29           e. That reasonable efforts were made in accordance with subsection 7 of section  
30           27-20.3-20;

- 1           f. That the child has attained the age of eighteen or older but does not exceed the  
2           age of twenty-one years;
- 3           g. That the child has satisfied the education, employment, or disability requirements  
4           under the federal Fostering Connections to Success and Increasing Adoptions  
5           Act of 2008 [Pub. L. 110-351] and as set forth by the department of human  
6           services;
- 7           h. That the human service zone, as determined by the department of human  
8           services, or that an agency or tribal council of a recognized Indian reservation in  
9           the state, shall continue foster care case management, unless otherwise agreed  
10          to or required by the department of human services;
- 11          i. That the human service zone or an agency or tribal council of a recognized  
12          Indian reservation in the state must have care and placement responsibility of the  
13          child;
- 14          j. That permanency hearing must be as set forth in section 27-20.3-26; and
- 15          k. That there are no grounds to file a petition to terminate parental rights under  
16          section 27-20.3-22.

17          5. Pursuant to rule 16 of the North Dakota Rules of Juvenile Procedure, a court may  
18          modify or vacate the judicial determination made under subsection 4.

19          **27-20.3-18. Human service zone to report to committing juvenile court.**

- 20          1. A human service zone shall develop a family case plan and file the plan with the  
21          committing juvenile court within sixty days.
- 22          2. A human service zone shall review each placement of a child found to be in need or  
23          protection with custody ordered to a human service zone and shall review the current  
24          status of each child every three months to determine whether a change in placement  
25          or program is necessary for continued efforts toward reunification and permanency of  
26          the child, and shall report the findings to the committing juvenile court.

27          **27-20.3-19. Court order required for removal of child.**

28          An order of disposition or other adjudication in a proceeding under this chapter, in those  
29          cases in which a child is removed from the home of a parent, custodian, or guardian for the  
30          reason that continuation in such home would be contrary to the welfare of such child, must



1 specifically state that a continuation of the child in the home of the parent, custodian, or  
2 guardian would be contrary to the welfare of the child.

3 **27-20.3-20. Reasonable efforts to prevent removal or to reunify - When required.**

4 1. As used in this section, "reasonable efforts" means the exercise of due diligence, by  
5 the agency granted authority over the child under this chapter, to use appropriate and  
6 available services to meet the needs of the child and the child's family in order to  
7 prevent removal of the child from the child's family or, after removal, to use appropriate  
8 and available services to eliminate the need for removal, to reunite the child and the  
9 child's family, and to maintain family connections. In determining reasonable efforts to  
10 be made with respect to a child under this section, and in making reasonable efforts,  
11 the child's health and safety must be the paramount concern.

12 2. Except as provided in subsection 4, reasonable efforts must be made to preserve  
13 families, reunify families, and maintain family connections:

14 a. Before the placement of a child in foster care, to prevent or eliminate the need for  
15 removing the child from the child's home;

16 b. To make it possible for a child to return safely to the child's home;

17 c. Whether and, if applicable, to place siblings in the same foster care, relative,  
18 guardianship, or adoptive placement, unless it is determined that such a joint  
19 placement would be contrary to the safety or well-being of any of the siblings;  
20 and

21 d. In the case of siblings removed from the home of the siblings who are not jointly  
22 placed, to provide for frequent visitation or other ongoing interaction between the  
23 siblings, unless it is contrary to the safety or well-being of any of the siblings.

24 3. If the court or the child's custodian determined that continuation of reasonable efforts,  
25 as described in subsection 2, is inconsistent with the permanency plan for the child,  
26 reasonable efforts must be made to place the child in a timely manner in accordance  
27 with the permanency plan and to complete steps that are necessary to finalize the  
28 permanent placement of the child.

29 4. Reasonable efforts of the type described in subsection 2 are not required if:

30 a. A court of competent jurisdiction has determined a parent has subjected a child to  
31 aggravated circumstances; or

1           b. The parental rights of the parent, with respect to another child of the parent, have  
2           been involuntarily terminated.

3           5. Efforts to place a child for adoption, with a fit and willing relative or other appropriate  
4           individual as a legal guardian, or in another planned permanent living arrangement,  
5           may be made concurrently with reasonable efforts of the type described in  
6           subsection 2.

7           6. Removal of a child from the child's home for placement in foster care must be based  
8           on judicial findings stated in the court's order, and determined on a case-by-case basis  
9           in a manner that complies with the requirements of titles IV-B and IV-E of the federal  
10          Social Security Act [42 U.S.C. 620 et seq. and 42 U.S.C. 6701 et seq.], as amended,  
11          and federal regulations adopted under this federal Act, provided that this subsection  
12          may not provide a basis for overturning an otherwise valid court order.

13          7. For the purpose of section 27-20.3-21, reasonable efforts were made under this  
14          section to meet the child's needs before a foster care placement for a child remaining  
15          in care for continued foster care purposes.

16          **27-20.3-21. Indian child welfare - Active efforts and procedures.**

17          1. As used in this section:

18          a. "Active efforts" means affirmative, active, thorough, and timely efforts intended  
19          primarily to maintain or reunite an Indian child with the child's family. Active efforts  
20          required of the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through  
21          1963] apply or may apply, including during the verification process. If an agency  
22          is involved in the child-custody proceeding, active efforts must involve assisting  
23          the parent or parents or Indian custodian through the steps of a case plan and  
24          with accessing or developing the resources necessary to satisfy the case plan. To  
25          the maximum extent possible, active efforts should be provided in a manner  
26          consistent with the prevailing social and cultural conditions and way of life of the  
27          Indian child's tribe and should be conducted in partnership with the Indian child  
28          and the Indian child's parents, extended family members, Indian custodians, and  
29          tribe. Active efforts are to be tailored to the facts and circumstances of the case.  
30          The term includes:

- 1           (1) Conducting a comprehensive assessment of the circumstances of the  
2           Indian child's family, with a focus on safe reunification as the most desirable  
3           goal, with ongoing timely assessment to determine when the threat is  
4           resolved and placement of the child can be returned to the custodian.
- 5           (2) Identifying appropriate services and helping the parents to overcome  
6           barriers, including actively assisting the parents in obtaining such services.
- 7           (3) Identifying, notifying, and inviting representatives of the Indian child's tribe to  
8           participate in providing support and services to the Indian child's family and  
9           in family team meetings, permanency planning, and resolution of placement  
10          issues.
- 11          (4) Conducting or causing to be conducted a diligent search for the Indian  
12          child's extended family members, and contacting and consulting with  
13          extended family members to provide family structure and support for the  
14          Indian child and the Indian child's parents.
- 15          (5) Offering and employing available and culturally appropriate family  
16          preservation strategies and facilitating the use of remedial and rehabilitative  
17          services provided by the child's tribe.
- 18          (6) Taking steps to keep siblings together, if possible.
- 19          (7) Supporting regular visits with parents or Indian custodians in the most  
20          natural setting possible as well as trial home visits of the Indian child during  
21          any period of removal, consistent with the need to ensure the health, safety,  
22          and welfare of the child.
- 23          (8) Identifying community resources, including housing, financial,  
24          transportation, mental health, substance abuse, and peer support services  
25          and actively assisting the Indian child's parents or, as appropriate, the  
26          child's family, in utilizing and accessing those resources.
- 27          (9) Monitoring progress and participation in services.
- 28          (10) Considering alternative ways to address the needs of the Indian child's  
29          parents and where appropriate, the family, if the optimum services do not  
30          exist or are not available.
- 31          (11) Providing post-reunification services and monitoring.

- 1           b. "Extended family member" means a relationship defined by the law or custom of  
2           the Indian child's tribe or, in the absence of such law or custom, means an  
3           individual who has reached the age of eighteen and who is the Indian child's  
4           grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece  
5           or nephew, first or second cousin, or stepparent.
- 6           c. "Indian" means an individual who is a member of an Indian tribe, or who is a  
7           native and a member of a regional corporation as defined under 43 U.S.C. 1606.
- 8           d. "Indian child" means any unmarried individual who is under the age of eighteen  
9           and is either a member of an Indian tribe or is eligible for membership in an  
10          Indian tribe and is the biological child of a member of an Indian tribe.
- 11          e. "Indian child's tribe" means the Indian tribe in which an Indian child is a member  
12          or eligible for membership or, in the case of an Indian child who is a member of or  
13          eligible for membership in more than one tribe, the Indian tribe with which the  
14          Indian child has the more significant contacts.
- 15          f. "Indian custodian" means any Indian individual who has legal custody of an  
16          Indian child under tribal law or custom or under state law or to whom temporary  
17          physical care, custody, and control has been transferred by the parent of the  
18          child.
- 19          g. "Indian tribe" means an Indian tribe, band, nation, or other organized Indian  
20          group or community of Indians recognized as eligible for services provided to  
21          Indians by the United States secretary of the interior because of their status as  
22          Indians, including any Alaska native village as defined in 43 U.S.C. 1602(c).
- 23          h. "Parent" means any biological parent or parents of an Indian child or any Indian  
24          individual who has lawfully adopted an Indian child, including adoptions under  
25          tribal law or custom. The term does not include the unwed father if paternity has  
26          not been acknowledged or established.
- 27          i. "Termination of parental rights" means any action resulting in the termination of  
28          the parent-child relationship. It does not include a placement based upon an act  
29          by an Indian child which, if committed by an adult, would be deemed a crime or a  
30          placement upon award of custody to one of the child's parents in a divorce  
31          proceeding.

- 1       2. Before removal of an Indian child from the custody of a parent or Indian custodian for  
2       purposes of involuntary foster care placement or the termination of parental rights over  
3       an Indian child, the court shall find that active efforts have been made to provide  
4       remedial services and rehabilitative services designed to prevent the breakup of the  
5       Indian family and that these efforts have proved unsuccessful. The court may not  
6       order the removal unless evidence of active efforts shows there has been a vigorous  
7       and concerted level of casework beyond the level that would constitute reasonable  
8       efforts under section 27-20.3-28. Reasonable efforts may not be construed to be  
9       active efforts. Active efforts must be made in a manner that takes into account the  
10      prevailing social and cultural values, conditions, and way of life of the Indian child's  
11      tribe. Active efforts must utilize the available resources of the Indian child's extended  
12      family, tribe, tribal and other relevant social service agencies, and individual Indian  
13      caregivers.
- 14      3. The court may order the removal of the Indian child for involuntary foster care  
15      placement only if the court determines, by clear and convincing evidence, that  
16      continued custody of the child by the parent or Indian custodian is likely to result in  
17      serious emotional or physical damage to the child. Evidence must show a causal  
18      relationship between the particular conditions in the home and the likelihood that  
19      continued custody of the child will result in serious emotional or physical damage to  
20      the particular child who is the subject of the proceeding. Poverty, isolation, custodian  
21      age, crowded or inadequate housing, substance use, or nonconforming social  
22      behavior does not by itself constitute clear and convincing evidence of imminent  
23      serious emotional or physical damage to the child. As soon as the threat has been  
24      removed and the child is no longer at risk, the state should terminate the removal, by  
25      returning the child to the parent while offering a solution to mitigate the situation that  
26      gave rise to the need for emergency removal and placement.
- 27      4. The court may only order the termination of parental rights over the Indian child if the  
28      court determines, by evidence beyond a reasonable doubt that continued custody of  
29      the child by the parent or Indian custodian is likely to result in serious emotional or  
30      physical damage to the child.

1       5. In considering whether to involuntarily place an Indian child in foster care or to  
2       terminate the parental rights of the parent of an Indian child, the court shall require that  
3       a qualified expert witness must be qualified to testify regarding whether the child's  
4       continued custody by the parent or Indian custodian is likely to result in serious  
5       emotional or physical damage to the child and should be qualified to testify as to the  
6       prevailing social and cultural standards of the Indian child's tribe. An individual may be  
7       designated by the Indian child's tribe as being qualified to testify to the prevailing  
8       social and cultural standards of the Indian child's tribe. The court or any party may  
9       request the assistance of the Indian child's tribe or the bureau of Indian affairs office  
10      servicing the Indian child's tribe in locating individuals qualified to serve as expert  
11      witnesses. The social worker regularly assigned to the Indian child may not serve as a  
12      qualified expert witness in child-custody proceedings concerning the child. The  
13      qualified expert witness should be someone familiar with the particular child and have  
14      contact with the parents to observe interaction between the parents, child, and  
15      extended family members. The child welfare agency and courts should facilitate  
16      access to the family and records to facilitate accurate testimony.

17      **27-20.3-22. Termination of parental rights.**

- 18      1. The court by order may terminate the parental rights of a parent with respect to the  
19      parent's child if:
- 20      a. The parent has abandoned the child;
- 21      b. The child is subjected to aggravated circumstances;
- 22      c. The child is in need of services or protection and the court finds:
- 23          (1) The conditions and causes of the need for services or protection are likely to  
24          continue or will not be remedied and for that reason the child is suffering or  
25          will probably suffer serious physical, mental, moral, or emotional harm; or
- 26          (2) The child has been in foster care, in the care, custody, and control of the  
27          department or human service zone, or, in cases arising out of an  
28          adjudication by the juvenile court that a child is in need of services, the  
29          division of juvenile services, for at least four hundred fifty out of the previous  
30          six hundred sixty nights;

- 1           d. The written consent of the parent acknowledged before the court has been given;  
2           or  
3           e. The parent has pled guilty or nolo contendere to, or has been found guilty of  
4           engaging in a sexual act under section 12.1-20-03 or 12.1-20-04, the sexual act  
5           led to the birth of the parent's child, and termination of the parental rights of the  
6           parent is in the best interests of the child.  
7           2. If the court does not make an order of termination of parental rights, it may grant an  
8           order under section 27-20.3-16 if the court finds from clear and convincing evidence  
9           that the child is in need of protection.

10           **27-20.3-23. Petition for termination of parental rights.**

- 11           1. As used in this section:  
12           a. "A finding that the child has been subjected to child abuse or neglect" means:  
13           (1) A finding of a child in need of protection made under this chapter; or  
14           (2) A conviction of a person, responsible for a child's welfare, for conduct  
15           involving the child, under chapter 12.1-16 or sections 12.1-17-01 through  
16           12.1-17-04 or 12.1-20-01 through 12.1-20-08.  
17           b. "Compelling reason" means a recorded statement that reflects consideration of:  
18           (1) The child's age;  
19           (2) The portion of the child's life spent living in the household of a parent of the  
20           child;  
21           (3) The availability of an adoptive home suitable to the child's needs;  
22           (4) Whether the child has special needs; and  
23           (5) The expressed wishes of a child age ten or older.  
24           c. "Department" means the department of human services.  
25           d. "Human service zone" means a county or consolidated group of counties  
26           administering human services within a designated area in accordance with an  
27           agreement or plan approved by the department.  
28           2. A petition for termination of parental rights must be prepared, filed, and served upon  
29           the parties by the state's attorney. A petition may also be prepared by any other  
30           person that is not the court, including a law enforcement officer, who has knowledge of  
31           the facts alleged or is informed and believes that they are true. A petition prepared by

1           any person other than a state's attorney may not be filed unless the director or the  
2           court, has determined the filing of the petition is in the best interest of the public and  
3           the child.

4       3. Except as provided in subsection 4, a petition for termination of parental rights must be  
5       filed:

6       a. If the child has been in foster care, in the custody of the department, human  
7       service zone, or, in cases arising out of an adjudication by the court of a child in  
8       need of services, the division of juvenile services, for at least four hundred fifty  
9       out of the previous six hundred sixty nights;

10      b. Within sixty days after the court has found the child to be an abandoned infant; or

11      c. Within sixty days after the court has convicted the child's parent of one of the  
12      following crimes, or of an offense under the laws of another jurisdiction which  
13      requires proof of substantially similar elements:

14      (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1  
15      of section 14-09-22 in which the victim is another child of the parent;

16      (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section  
17      12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the  
18      parent; or

19      (3) A violation of section 12.1-17-02 in which the victim is a child of the parent  
20      and has suffered serious bodily injury.

21      4. A petition for termination of parental rights need not be filed if:

22      a. The child is being cared for by a relative approved by the department and human  
23      service zone;

24      b. The department or human service zone has documented in the case plan a  
25      compelling reason for determining that filing such a petition would not be in the  
26      child's best interests and has notified the court that the documentation is  
27      available for review by the court; or

28      c. The department or the human service zone has determined:

29      (1) Reasonable efforts to preserve and reunify the family are required under  
30      section 27-20.3-28 to be made with respect to the child;



1                   (2) The case plan provides such services are necessary for the safe return of  
2                   the child to the child's home; and

3                   (3) Such services have not been provided consistent with time periods  
4                   described in the case plan.

5           5. For purposes of subsection 3, a child in foster care entered foster care on the earlier  
6           of:

7           a. The date of the court's order if the court:

8                   (1) Made a finding that the child has been subjected to child abuse or neglect;

9                   (2) Determined that it is unsafe or contrary to the welfare of the child to remain  
10                  in the home; and

11                  (3) Granted custody of the child to the department or human service zone or, in  
12                  cases arising out of an adjudication by the court that a child is in need of  
13                  services, the division of juvenile services; or

14           b. The date that is sixty days after:

15                   (1) The date of a hearing under section 27-20.3-10 which results in maintaining  
16                   a child in shelter care;

17                   (2) The date of an order in a dispositional hearing under which a child is placed  
18                   in foster care; or

19                   (3) The date a child is placed in foster care voluntarily and with the consent of  
20                   the child's parent.

21           6. For purposes of subsection 3, a child leaves foster care at the time:

22           a. The court enters an order:

23                   (1) Denying a petition to grant care, custody, and control of the child to the  
24                   human service zone or the division of juvenile services;

25                   (2) Terminating an order that granted custody of the child to the human service  
26                   zone or the division of juvenile services; or

27                   (3) Appointing a legal guardian under chapter 27-20.1;

28           b. The court order under which the child entered foster care ends by operation of  
29           law;

- 1           c. The child is placed in a parental home by the court or a legal custodian other  
2           than the division of juvenile services and the legal custodian lacks authority to  
3           remove the child without further order of the court; or
- 4           d. The child is placed in a parental home by the division of juvenile services.
- 5        7. For purposes of subsection 3, a child is not in foster care on any night during which  
6        the child is:
- 7           a. On a trial home visit;
- 8           b. Receiving services at the youth correctional center pursuant to an adjudication of  
9           delinquency; or
- 10          c. Absent without leave from the place in which the child was receiving foster care.

11        **27-20.3-24. Proceeding for termination of parental rights.**

- 12        1. The petition must contain information required by the North Dakota Rules of Juvenile  
13        Procedure and state clearly that an order for termination of parental rights is requested  
14        and that the effect will be as stated in section 27-20.3-25.
- 15        2. If both of the biological parents of the child are not named in the petition either as  
16        petitioner or as respondent, the court shall cause inquiry to be made of the petitioner  
17        and other appropriate persons in an effort to identify an unnamed parent. The inquiry  
18        must include, to the extent necessary and appropriate, all of the following:
- 19           a. Whether any man is presumed to be the father of the child under chapter 14-20.
- 20           b. Whether the biological mother of the child was cohabiting with a man at the time  
21           of conception or birth of the child.
- 22           c. Whether the biological mother of the child has received from any man support  
23           payments or promises of support with respect to the child or in connection with  
24           the pregnancy.
- 25           d. Whether any individual has formally or informally acknowledged or declared that  
26           individual's possible parentage of the child.
- 27           e. Whether any individual claims any right to custody of the child.
- 28        3. The court shall add as respondent to the petition and cause to be served with a  
29        summons any individual identified by the court as an unnamed parent, unless the  
30        individual has relinquished parental rights, or parental rights have been previously  
31        terminated by a court.

1       4. If the court, after inquiry, is unable to identify an unnamed parent and no individual has  
2       appeared in the proceeding claiming to be an unnamed parent of the child or to have  
3       any right of custody of the child, the court shall enter an order terminating all parental  
4       rights of the unnamed parent with reference to the child and the parent and child  
5       relationship.

6       5. If a petition for termination of parental rights is made by a parent of the child under this  
7       section or if a parent consents to termination of parental rights, that parent is entitled  
8       to legal counsel during all stages of a proceeding to terminate the parent and child  
9       relationship.

10      6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order  
11      terminating parental rights is issued under this section, the order may not be  
12      questioned by any person, including the petitioner, in any manner, or upon any  
13      ground, including fraud, misrepresentation, failure to give any required notice, or lack  
14      of jurisdiction of the parties or of the subject matter, unless the person retained  
15      custody of the child.

16      7. At least ten days before the petition is heard, the clerk of district court or juvenile court  
17      shall provide a copy of the petition and summons, if any, to the director of the human  
18      service zone.

19      **27-20.3-25. Effect of order terminating parental rights or appointing a legal guardian.**

20      An order terminating parental rights of a parent terminates all the parent's rights and  
21      obligations with respect to the child and of the child to or through the parent arising from the  
22      parental relationship. Following the order terminating parental rights, the parent is not entitled to  
23      notice of proceedings for the adoption of the child by another nor has the parent any right to  
24      object to the adoption or otherwise to participate in the proceedings.

25      **27-20.3-26. Disposition upon termination of parental rights.**

26      1. If, upon entering an order terminating the parental rights of a parent, there is no parent  
27      having parental rights, the court shall:

- 28          a. Commit the child to the custody of the human service zone director or a licensed  
29          child-placing agency willing to accept custody for the purpose of placing the child  
30          for adoption or, in the absence of such an agreement, in a foster home;

- 1           b. Appoint a fit and willing relative or other appropriate individual as the child's legal  
2           guardian; or  
3           c. Establish some other planned permanent living arrangement.  
4        2. The custodian has the rights of a legal custodian and authority to consent to the child's  
5        adoption, marriage, enlistment in the armed forces of the United States, and surgical  
6        and other medical treatment.  
7        3. If the child is not placed for adoption within twelve months after the date of the order  
8        and a legal guardianship or other planned permanent living arrangement for the child  
9        has not been established by a court of competent jurisdiction, the child must be  
10       returned to the court issuing the original termination order for entry of further orders for  
11       the care, custody, and control of the child.

12        **27-20.3-27. Court order required for removal of child.**

13        An order of disposition or other adjudication in a proceeding under this chapter, in those  
14        cases in which a child is removed from the home of a parent, custodian, or guardian for the  
15        reason that continuation in such home would be contrary to the welfare of such child, must  
16        specifically state that a continuation of the child in the home of the parent, custodian, or  
17        guardian would be contrary to the welfare of the child.

18        **27-20.3-28. Limitations of time on orders of disposition.**

- 19        1. An order terminating parental rights is without limit as to duration.  
20        2. An order of disposition requiring services for the family without the removal of custody  
21        may not exceed twelve months from disposition unless extended by the court. The  
22        human service zone may request two extensions of up to four months each for the  
23        family to complete the treatment goals of the court order and the case plan.  
24        3. Except as provided in subsection 2, an order of disposition pursuant to which a child is  
25        placed in foster care may not continue in force for more than twelve months after the  
26        child is considered to have entered foster care. Before the extension of any court order  
27        limited under this subsection, a permanency hearing must be conducted. Any other  
28        order of disposition may not continue in force for more than twelve months.  
29        4. Except after a termination of parental rights finding, the court may terminate an order  
30        of disposition before the expiration of the order or extend its duration for further  
31        periods. An order of extension may be made if:

- 1           a. A hearing is held before the expiration of the order upon motion of a party or on  
2           the court's own motion;
- 3           b. Reasonable notice of the hearing and opportunity to be heard are given to the  
4           parties affected;
- 5           c. The court finds the extension is necessary to accomplish the purposes of the  
6           order extended; and
- 7           d. The extension does not exceed twelve months from the expiration of an order  
8           limited by subsection 3 or two years from the expiration of any other limited order.
- 9        5. The court may terminate an order of disposition or extension before its expiration, on  
10       or without an application of a party, if it appears to the court the purposes of the order  
11       have been accomplished. If a party may be affected adversely by the order of  
12       termination, the order may be made only after reasonable notice and opportunity to be  
13       heard have been given to the party.
- 14       6. Except as provided in subsection 1, when the child attains the age of twenty years, all  
15       orders affecting the child then in force terminate and the child is discharged from  
16       further obligation or control.
- 17       7. If an order of disposition is made with respect to a child under the age of ten years  
18       pursuant to which the child is placed in foster care without terminating parental rights  
19       and the parent and child relationship, the court, before extending the duration of the  
20       order, shall determine upon the extension hearing whether the child is adoptable and  
21       whether termination of those rights and that relationship is warranted under section  
22       27-20.3-03.1 and is in the best interest of the child. In that case the notice of the  
23       extension hearing also must inform the parties affected that the court will determine  
24       whether the child is adoptable and whether termination of their parental rights and the  
25       parent and child relationship is warranted and in the best interest of the child and that  
26       a further order of disposition may be made by the court placing the child with a view to  
27       adoption. If the court determines the child is adoptable and termination of parental  
28       rights and the parent and child relationship is warranted and is in the best interest of  
29       the child, the court shall make a further order of disposition terminating those rights  
30       and that relationship and committing the child under section 27-20.3-09.

1       **SECTION 24.** Chapter 27-20.4 of the North Dakota Century Code is created and enacted  
2 as follows:

3       **27-20.4-01. Definitions.**

4       As used in this chapter:

- 5       1. "Accountability" means that after a child is determined to have committed delinquent  
6       behavior, by admission or adjudication, the child is held responsible for the behavior  
7       through individualized and structured consequences or sanctions for the loss,  
8       damage, or injury suffered and proportionate to the offense.
- 9       2. "Arrest" means a taking into custody of a child by law enforcement in the manner  
10       authorized by law to answer for the commission of a delinquent offense.
- 11       3. "Attendant care" is a nonsecure holdover site for delinquent children or children in  
12       need of services who have been picked up by law enforcement and need constant  
13       short-term supervision on a preadjudicatory basis.
- 14       4. "Child" means an individual who is:
  - 15       a. Under the age of eighteen years and is not married; or
  - 16       b. Under the age of twenty years with respect to a delinquent act committed while  
17       under the age of eighteen years and not married.
- 18       5. "Community-based program" means a nonresidential program.
- 19       6. "Custodian" means a person, other than a parent or legal guardian, which stands in  
20       loco parentis to the child and a person that has been given legal custody of the child  
21       by order of a court.
- 22       7. "Delinquent act" means an act designated a crime under the law, including local  
23       ordinances or resolutions of this state, or of another state if the act occurred in that  
24       state, or under federal law, and the crime does not fall under subdivision c of  
25       subsection 21 of section 27-20.2-01.
- 26       8. "Delinquent child" means a child who has committed a delinquent act and is in need of  
27       treatment or rehabilitation.
- 28       9. "Detention" means a physically secure facility with locked doors. The term does not  
29       include shelter care, attendant care, or home confinement.
- 30       10. "Director" means the director of juvenile court services.

- 1        11. "Dispositional stage" means any proceeding after adjudication for a delinquent  
2        offense.
- 3        12. "Diversion" means an intervention strategy made by a person with authority which  
4        directs the child away from formal court processing to a specifically designed program  
5        or activity to hold the child accountable for the actions of the child and prevents further  
6        involvement in the formal legal system.
- 7        13. "Division" means the division of juvenile services.
- 8        14. "Evidence-based" means a program or practice that has had multiple randomized  
9        control studies demonstrating the program or practice is effective for a specific  
10       population, has been researched, and has been rated as effective by a standardized  
11       program evaluation tool.
- 12       15. "Facility" means buildings, structures, or systems, including those for essential  
13       administration and support, which are used to provide residential treatment for  
14       children.
- 15       16. "Fit and willing relative or other appropriate individual" means a relative or other  
16       individual who has been determined, after consideration of an assessment that  
17       includes a criminal history record investigation under chapter 50-11.3, to be a qualified  
18       individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a  
19       legal guardian.
- 20       17. "Graduated sanctions" means a calibrated system of sanctions designed to ensure  
21       that children face timely and consistent consequences that correspond to the  
22       frequency and nature of a child's noncompliant behaviors, public safety risk, and  
23       engagement in supervision and services.
- 24       18. "Home" when used in the phrase "to return home" means the abode of the child's  
25       parent with whom the child formerly resided.
- 26       19. "Home confinement" means predisposition or post-disposition temporary placement of  
27       a child in the child's home, or a surrogate home with the consent of the child's parent,  
28       guardian, or custodian for supervision.
- 29       20. "Human service zone" means a county or consolidated group of counties  
30       administering human services within a designated area in accordance with an  
31       agreement or plan approved by the department of human services.

- 1        21. "Incentives" means calibrated system of rewards designed so that children receive  
2        immediate and consistent feedback that supports appropriate behavior and follow  
3        through with probation conditions.
- 4        22. "Informal adjustment" means a meeting held by the director of juvenile court or  
5        designee to resolve a low-level delinquent referral and is an alternative to the filing of a  
6        petition for formal court processing.
- 7        23. "Intensive supervision probation program" means a community-based alternative that  
8        provides a higher degree of supervision and use of graduated incentives and  
9        sanctions over a child, post-adjudication, to ensure public safety and applies to  
10       children who are at high risk to reoffend.
- 11       24. "Juvenile court" means the district court of this state.
- 12       25. "Pick up and hold order" means an order of the court to take a child into custody  
13       based upon an allegation of delinquency or failure to appear for court.
- 14       26. "Predisposition assessment" means an investigation, assessment, and written report  
15       to the court based on the results of risk and need screening and assessment tools  
16       regarding a disposition for a delinquent child.
- 17       27. "Proceeding" means any hearing or informal adjustment conducted before a court.
- 18       28. "Qualified residential treatment program" means a licensed or approved residence  
19       providing an out-of-home treatment placement for children including a trauma-  
20       informed model.
- 21       29. "Referral" means a written report of alleged delinquent behavior of a child which is  
22       received by the director of juvenile court.
- 23       30. "Relative" means:
- 24       a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt,  
25       uncle, great-uncle, nephew, niece, or first cousin;
- 26       b. An individual with a relationship to the child, derived through a current or former  
27       spouse of the child's parent, similar to a relationship described in subdivision a;
- 28       c. An individual recognized in the child's community as having a relationship with  
29       the child similar to a relationship described in subdivision a; or
- 30       d. The child's stepparent.



1        31. "Risk factors" means characteristics and behaviors that, when addressed or changed,  
2            affect a child's risk for committing delinquent acts.

3        32. "Shelter care" means temporary care of a child in physically unrestricted facilities.

4        33. "Treatment" means targeting interventions that focus on risk factors, improved mental  
5            health, and improved positive youth outcomes.

6        **27-20.4-02. Jurisdiction.**

7        Jurisdiction as set forth in section 27-20.2-03 is applicable to this chapter.

8        **27-20.4-03. Venue.**

9        A proceeding under this chapter may be commenced in the county in which the child  
10       resides. If delinquent conduct is alleged, the proceeding is commenced in the county in which  
11       the acts constituting the alleged delinquent conduct occurred. If delinquent conduct is alleged in  
12       part in one county and in part in another county, the jurisdiction is in either of the counties.

13       **27-20.4-04. Powers and duties of director of juvenile court.**

- 14       1. For the purpose of carrying out the objectives and purposes of this chapter and  
15       subject to the limitations of this chapter or imposed by the court, a director shall:
- 16       a. Make investigations, reports, and recommendations to the juvenile court.
  - 17       b. Receive and examine complaints, referrals, and charges of delinquency for the  
18       purpose of considering the commencement of proceedings under this chapter.
  - 19       c. Make a determination upon intake of referrals regarding the appropriate manner  
20       to handle a child in need of services or a child in need of protection by use of  
21       nonjudicial commencement of proceedings under this chapter.
  - 22       d. Supervise and assist a child placed on probation for delinquency.
  - 23       e. Make appropriate referrals to other private or public agencies of the community if  
24       their assistance appears to be needed or desirable.
  - 25       f. Issue a temporary custody order concerning a child who is referred to the  
26       director's supervision or care as a delinquent child. Except as provided by this  
27       chapter, a director does not have the powers of a law enforcement officer.
  - 28       g. Take acknowledgments of instruments for the purpose of this chapter.
  - 29       h. Perform all other functions designated by this chapter, under section 27-05-30, or  
30       by order of the court, including, if qualified, those of a referee.

- 1           i. Issue an order to a law enforcement authority to transport a child to and from a  
2           specified location.
- 3           j. Receive and examine requests for review of a child's placement at a qualified  
4           residential treatment program under the Family First Prevention Services Act  
5           [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
- 6       2. Any of the foregoing functions may be performed in another state if authorized by the  
7       court of this state and permitted by the laws of the other state.

8       **27-20.4-05. Taking into custody.**

- 9       1. A child may be taken into custody:
  - 10       a. Pursuant to a pick up and hold order or other order of the court under this  
11       chapter;
  - 12       b. Pursuant to the laws of arrest and as authorized after scoring of the detention  
13       screening tool; or
  - 14       c. For preadjudicatory supervision in attendant care or shelter care.
- 15       2. The taking of a child into custody is not an arrest, except for the purpose of  
16       determining the validity of the arrest under the Constitution of North Dakota or the  
17       United States Constitution.
- 18       3. A law enforcement officer shall transport a child if necessary as determined by the  
19       court.

20       **27-20.4-06. Detention - Nonsecure care of child.**

- 21       1. A child taken into custody may not be detained or placed in nonsecure care before the  
22       hearing on the petition unless the child's detention or nonsecure care is required to  
23       protect the person or property of others or of the child or because the child may  
24       abscond or be removed from the jurisdiction of the court or because the child has no  
25       parent, guardian, or custodian or other person able to provide supervision and care for  
26       the child and return the child to the court if required, or an order for the child's  
27       detention or nonsecure care has been made by the court pursuant to this chapter.
- 28       2. Law enforcement, juvenile court staff, and division staff shall use a detention  
29       screening tool to assure the appropriate use of detention. The juvenile court shall  
30       establish the detention screening tool, which must include objective factors to aid in  
31       the decision of placement of the child. Law enforcement, court records, and division

- 1           records must include data on detention screening scores and, if the score does not  
2           authorize detention, the explanation for the override resulting in placing the juvenile in  
3           detention.
- 4        3. The court may place a juvenile in detention before adjudication only if the court finds  
5           releasing the child would pose an unreasonable risk to public safety and that all  
6           restrictive alternatives have been considered.
- 7        4. A juvenile may be placed in a secure detention facility if one or more of the following  
8           conditions are met:
- 9           a. The child is alleged to have committed an offense that if committed by an adult  
10           would constitute a felony against person, felony weapon, or felony drug  
11           distribution;
- 12           b. The child has a record of failure to appear in court or there is probable cause to  
13           believe that the child will flee the jurisdiction of the court;
- 14           c. The child has violated the terms of detention release on home confinement or  
15           electronic monitoring;
- 16           d. There is oral or written verification that the child is an alleged delinquent child  
17           sought for an offense in another jurisdiction or that the child left a juvenile  
18           detention facility without authorization.
- 19           e. The child is an out-of-state runaway subject to the rules of the interstate  
20           commission on juveniles;
- 21           f. The child meets criteria for secure detention on the detention screening tool; or  
22           g. The child meets criteria for an override on the detention screening tool.
- 23        5. A child may not be placed in detention solely due to lack of supervision alternatives or  
24           due to the community's inability to provide appropriate treatment or services.
- 25        6. Alternatives to secure detention may be utilized to include home confinement,  
26           electronic monitoring, and parental or guardian supervision if the court determines  
27           there is no unreasonable risk to public safety.
- 28        7. A child placed in detention must have a mental health and trauma screening tool  
29           completed by the juvenile detention center or by juvenile court upon entry and provide  
30           that information to the juvenile court before release or detention hearing.

1       **27-20.4-07. Release or delivery to court.**

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

4       a. Complete the detention screening instrument and use the results in making a  
5       release or hold decision. Release options include allowing a child to return home  
6       with parental supervision and a promise to appear for court if notified, or release  
7       with limited supervision, such as an electronic monitoring device or conditions for  
8       home confinement.

9       b. Release the child to the child's parent, guardian, custodian, or other responsible  
10       adult able and willing to assume custody of the child, upon that individual's  
11       promise to bring the child before the court if requested by the court, unless the  
12       child's detention warranted or required under section 27-20.4-05; or

13       c. Bring the child before the court or deliver the child to a detention facility  
14       designated by the court or to a medical facility if the child is believed to suffer  
15       from a serious physical condition or illness that requires prompt treatment. The  
16       person taking the child into custody promptly shall give notice of taking the child  
17       into custody, together with a statement of the reason for taking the child into  
18       custody, to a parent, guardian, or other custodian and to the court. Any temporary  
19       detention or questioning of the child necessary to comply with this subdivision  
20       must conform to the procedures and conditions prescribed by this chapter and  
21       rules of court.

22       2. If a parent, guardian, or other custodian, if requested, fails to bring the child before the  
23       court as provided in subsection 1, the court may issue a pick up and hold order  
24       directing that the child be taken into custody and brought before the court.

25       3. If the petition is not filed within five days after the date of the detention hearing, the  
26       child must be released from detention.

27       **27-20.4-08. Place of detention.**

28       A child alleged to be delinquent may be detained only in:

29       1. A licensed foster home or a home approved by the court;

30       2. A facility operated by a licensed child welfare agency;

- 1       3. A detention home or center for delinquent children which is under the direction or  
2       supervision of the court or other public authority or of a private agency approved by  
3       the court:
- 4       a. Any other suitable place or facility, including a medical facility for the treatment of  
5       mental illness, alcoholism, or drug addiction, designated by the court; or
- 6       b. A jail or other facility for the detention of adults only if the facility in subdivision c  
7       is not available, the detention is in a room separate and removed from those for  
8       adults, it appears to the satisfaction of the court, the director, or designee, that  
9       public safety and protection reasonably require detention, and it is so authorized.

10       **27-20.4-09. Release from detention or nonsecure care - Hearing - Conditions of**  
11       **release.**

- 12       1. If a child is brought before the court or delivered to a detention or nonsecure care  
13       facility designated by the court, the director, the intake officer, or other authorized  
14       officer of the court immediately shall make an investigation and release the child  
15       unless it appears that the child's detention is warranted or required under section  
16       27-20.4-05.
- 17       2. Reasonable notice of the release from detention must be provided to any victim as  
18       required by subsection 19 of section 12.1-34-02.
- 19       3. If the child is not released, reasonable notice, either oral or written, stating the time,  
20       place, and purpose of the detention or shelter care must be given to the child and, if  
21       able to be found, to the child's parents, guardian, or other custodian. If the child is not  
22       represented by counsel at a proceeding, the court shall inform the child of the right to  
23       counsel, regardless of income. Before the commencement of the hearing, the court  
24       shall inform the child's parents, legal guardian, or custodian of the right to counsel at  
25       public expense at the dispositional stage if the parent, guardian, or custodian applies  
26       and is determined to be indigent and of the child's right to remain silent with respect to  
27       any allegations of delinquent conduct.
- 28       a. If the child is not released from detention, a judge or referee shall hold a  
29       detention hearing within twenty-four hours after the time the child is placed in  
30       detention, excluding weekends or legal holidays, to determine whether there is  
31       probable cause to believe the child has committed the delinquent act alleged.

1                   and whether the child's detention is required under section 27-20.4-05. In  
2                   determining whether a child requires detention, the court shall consider the  
3                   results of the detention screening tool.

4           b. If the child is not released from nonsecure care, a judge or referee shall hold a  
5           hearing promptly and not later than ninety-six hours after the child is placed in  
6           nonsecure care to determine whether there is probable cause to believe the child  
7           has committed a delinquent act and whether the child's shelter care is required.

8           4. If the child is not released and a parent, guardian, or custodian has not been notified  
9           of the hearing, did not appear or waive appearance at the hearing, and files an  
10           affidavit showing these facts, the court shall rehear the matter without unnecessary  
11           delay and order the child's release, unless it appears from the hearing that the child's  
12           detention is required under section 27-20.4-05.

13           5. If the parents cannot be found or fail to appear for the detention or nonsecure care  
14           hearing and the child does not pose a substantial risk to the community and needs to  
15           be detained, the human service zone is notified and a child in need of protection or  
16           services care hearing is held.

17           6. If it appears that any child being held in detention or shelter care may have an  
18           intellectual or developmental disability, the court or detention personnel shall refer the  
19           child to the department of human services for an eligibility determination and the  
20           results of the eligibility determination must be filed with the court within the time  
21           required by the court.

22           7. If it appears that any child being held in detention or nonsecure care appears to have  
23           a mental health disorder, the detention staff or court intake officer shall request that  
24           the court order a mental health hospital placement prescreening that must be  
25           conducted within twenty-four hours after the court's order and the results must be filed  
26           with the court.

27           8. If an individual who is or appears to be a child is received at a jail facility or other  
28           facility for the detention of adult offenders or individuals charged with a crime, the  
29           official in charge of the facility immediately shall inform the court and bring the  
30           individual before the court upon request or deliver the individual to a detention or  
31           nonsecure facility designated by the court.

1        9. If a case is transferred to another court for criminal prosecution, the child may be  
2        transferred to the appropriate officer or detention facility in accordance with the law  
3        governing the detention of persons charged with crime.

4        **27-20.4-10. Diversion.**

5        1. Before an informal adjustment is held or a petition is filed, the director of juvenile court  
6        or designee may determine that no further action is required or impose conditions in  
7        lieu of further proceedings for the conduct and control of the child with a diversion to a  
8        community-based program or service.

9        2. A child referred to the court may be considered for diversion if any of the following  
10       criteria are met:

11       a. The child has no prior formal court adjudications for a similar offense type;

12       b. The referral is for a delinquent act that is not an offense requiring a notification to  
13       be sent to the department of transportation;

14       c. The referral is for a delinquent act that has not been previously diverted more  
15       than twice by the juvenile court within the last twelve months; or

16       d. The referral is not an offense that could require sex offender registration.

17       3. Effective August 1, 2023, except for a drug-related offense, simple assault under  
18       chapter 12.1-17-01, or domestic violence under chapter 12.1-17-01.2, a child who  
19       commits a delinquent act on school grounds during hours of operation may not be  
20       referred to the juvenile court.

21       **27-20.4-11. Informal adjustment.**

22       1. Before a petition is filed, the director of juvenile court, or other officer of the court  
23       designated by the court, subject to direction of the court may give counsel and advice  
24       to the parties and impose conditions for the conduct and control of the child in lieu of  
25       further proceedings with a view to an informal adjustment if it appears:

26       a. The admitted facts bring the case within the jurisdiction of the court;

27       b. Counsel, advice, and conditions, if any, for the conduct and control of the child  
28       without an adjudication would be in the best interest of the public and the child;  
29       and

30       c. The child and the child's parents, guardian, or other custodian consent to the  
31       conditions with knowledge that consent is not obligatory.

- 1       2. A child referred to the court may be considered for informal adjustment if any of the  
2       following criteria are met:
- 3       a. The child has no prior formal court adjudications for a similar case type within the  
4       last twelve months;
- 5       b. The referral is for a delinquent act and the child has not been previously diverted  
6       more than twice by the juvenile court;
- 7       c. A formal petition was filed but an informal adjustment has been requested by the  
8       state's attorney as part of an agreement with defense counsel or was ordered by  
9       the court in dismissing a formal petition;
- 10      d. The referral is a sex offense referral that could require sex offender registration  
11      but both the state's attorney and the victim have agreed to an informal  
12      adjustment to address the matter; or
- 13      e. The referral is from the division.
- 14      3. Reasonable written notice of the informal adjustment is given by the court to the victim  
15      if one is identified on the referral.
- 16      4. Upon an admission to the referred offense, the director of juvenile court or designee  
17      will conduct a preliminary risk and needs assessment and the results must be made  
18      available to the child and family. The results of the risk and needs assessment are  
19      used to inform the outcome of the informal adjustment. Individuals conducting the risk  
20      and needs screening tool must receive training on the appropriate delivery and use of  
21      the tool.
- 22      5. An informal agreement may not extend beyond six months from the day the  
23      agreement was agreed upon. An extension may be granted by the court for an  
24      additional period not to exceed six months. An extension may not authorize the  
25      detention of the child if not otherwise permitted by this chapter. If the child admits to  
26      driving or being in actual physical control of a vehicle in violation of section 39-08-01  
27      or an equivalent ordinance, the child may be required to pay a fine as a condition  
28      imposed under this section.
- 29      6. An incriminating statement made by a child to the juvenile court director or designee  
30      giving counsel, advice, or as part of the risk and need screening and assessment  
31      process, may not be used against the child over objection in any proceeding.



1        **27-20.4-12. Petition - Preliminary determination.**

2        A petition alleging delinquency under this chapter must be reviewed by the director, the  
3 court, or other person designated by the director and authorized by the court to determine  
4 whether the filing of the petition is in the best interest of the public and the child.

5        **27-20.4-13. Petition - Who may prepare and file - Review.**

6        A petition alleging delinquent conduct must be prepared, filed, and served upon the parties  
7 by the state's attorney.

8        **27-20.4-14. Conduct of hearings.**

- 9        1. Hearings under this chapter must be conducted by the court without a jury in  
10 accordance with the North Dakota Rules of Juvenile Procedure.
- 11        2. If the hearing has not been held within the time limit, or any extension of the time limit,  
12 required by the North Dakota Rules of Juvenile Procedure, the petition must be  
13 dismissed.
- 14        3. The state's attorney shall present the evidence in support of any allegations of the  
15 petition not admitted and otherwise conduct the proceedings on behalf of the state.
- 16        4. Except for informal adjustments under section 27-20.4-10, the proceedings must be  
17 recorded by stenographic notes or by electronic, mechanical, or other appropriate  
18 means.
- 19        5. The general public must be excluded from all hearings under this chapter. During  
20 hearings, only the parties, the parties' counsel, witnesses, victims, and any other  
21 persons the court finds have a proper interest in the proceedings may be admitted by  
22 the court. The court may temporarily exclude the child or other person from the  
23 hearing if, after being warned by the court that disruptive conduct will cause removal  
24 from the courtroom, the child or other person persists in conduct that justifies removal  
25 from the courtroom.

26        **27-20.4-15. Predispositional assessment.**

- 27        1. Before the disposition hearing, the court shall direct the director or designee, to  
28 conduct a predisposition assessment and to prepare a written report for the court,  
29 unless waived by the court.
- 30        2. The predisposition assessment must consist of a risk and needs assessment together  
31 with any other appropriate screenings.

- 1       3. During the pendency of any proceeding the court may order:
- 2           a. The child to be examined at a suitable place by a physician, psychologist, or
- 3                 certified addiction counselor;
- 4           b. The child to be tested by appropriate forensic methods to determine whether the
- 5                 child has been exposed to a controlled substance or other substance considered
- 6                 injurious to the child's health;
- 7           c. Medical or surgical treatment of a child who is suffering from a serious physical
- 8                 condition or illness, or alcohol or drug abuse, which in the opinion of a licensed
- 9                 physician requires prompt treatment, even if the parent, guardian, or other
- 10                custodian has not been given notice of a hearing, is not available, or without
- 11                good cause informs the court of that person's refusal to consent to the treatment;
- 12                or
- 13           d. An evidence-based risk and needs assessment, mental health screening, or
- 14                trauma screening.

15       **27-20.4-16. Adjudication.**

- 16       1. If the court finds by proof beyond a reasonable doubt that the child committed the acts
- 17               by reason of which the child is alleged to be delinquent, the court shall proceed
- 18               immediately or at a postponed hearing to hear evidence as to whether the child is in
- 19               need of treatment or rehabilitation and to make and file findings. In the absence of
- 20               evidence to the contrary, evidence of the commission of which constitute a felony is
- 21               sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If
- 22               the court finds that the child is not in need of treatment or rehabilitation, the court shall
- 23               dismiss the proceeding and discharge the child from any detention or other restriction
- 24               previously ordered.
- 25       2. After hearing the evidence on the petition, the court shall make and file findings as to
- 26               whether the child is delinquent and whether the acts ascribed to the child were
- 27               committed by the child. If the court finds the allegations of delinquent conduct have not
- 28               been established, the court shall dismiss the petition and order the child discharged
- 29               from any detention or other restriction previously ordered in the proceeding.
- 30       3. In hearings under subsection 1, all evidence helpful in determining the questions
- 31               presented, including the predisposition assessment and any other oral and written

1 reports, may be received by the court and relied upon to the extent of its probative  
2 value even though not otherwise competent in the hearing on the petition. The parties  
3 or the counsel of the parties must be afforded an opportunity to examine and  
4 controvert written reports so received and to cross-examine individuals making the  
5 reports. Sources of confidential information need not be disclosed.

- 6 4. On motion of the court or that of a party, the court may continue the hearings under  
7 this section for a reasonable period to receive reports and other evidence bearing on  
8 the disposition or the need for treatment or rehabilitation. In this event the court shall  
9 make an appropriate order for detention of the child or the child's release from  
10 detention subject to supervision of the court during the period of the continuance. In  
11 scheduling investigations and hearings the court shall give priority to proceedings in  
12 which a child is in detention or has otherwise been removed from the child's home  
13 before an order of disposition has been made.

14 **27-20.4-17. Disposition of a delinquent child.**

- 15 1. If the child is found to be a delinquent child, the court shall make findings and include  
16 in the order of disposition any actions or steps necessary to ensure:  
17 a. The child receives the treatment or rehabilitation the court deems most  
18 appropriate;  
19 b. Accountability to the victim; and  
20 c. Safety of the community.  
21 2. If the child is found to be a delinquent child, the court may order probation with  
22 conditions best suited to the child's individual need for treatment, rehabilitation, and  
23 welfare.  
24 3. If the court cannot find a less restrictive alternative, the court may commit a child to the  
25 division of juvenile services. A risk and need assessment must be the basis for the  
26 determination of commitment to the division of juvenile services. The court only may  
27 commit a child to the division for a new delinquent offense. Unless all probation  
28 extensions have been exhausted, the child's risk and treatment needs continue to be  
29 high and the child is refusing to comply with the terms of probation, the court may not  
30 commit a child for a violation of the terms of probation.  
31 4. The court may:

- 1           a. Order the child to make monetary restitution to the victim of the offense or to  
2                   complete a specified number of hours of community service as determined by the  
3                   court, or both;
- 4           b. Order the periodic testing for the use of illicit drugs or alcohol; or
- 5           c. Order the child's participation in a juvenile drug court program.
- 6       5. If the delinquent act committed by the child was a sexual offense, the court shall  
7           ensure the child is assessed in a timely manner, not to exceed thirty days, with  
8           age-appropriate social assessments to determine the appropriate level of required  
9           treatment.

10       **27-20.4-18. Probation of a delinquent child.**

- 11       1. A probation order entered by the court must place the child under the supervision of  
12           the director.
- 13       2. The conditions of probation must be specifically stated in writing and provided to the  
14           child.
- 15       3. Probation conditions must relate to the individual child's risk and needs assessment  
16           and the adjudicated offense.
- 17       4. Violations of probation conditions may be sanctioned by the juvenile director, or  
18           designee utilizing graduated sanctions and incentives.
- 19       5. Formal probation orders may not exceed twelve months from disposition.
- 20       6. The court may release a child from probation or modify the terms and conditions of the  
21           probation at any time, but the court shall release a child who has complied  
22           satisfactorily with the terms, conditions, and duration of probation and the court shall  
23           terminate the court's jurisdiction.
- 24       7. The director of juvenile court shall establish procedures regarding graduated sanctions  
25           and incentives. The graduated sanctions program may include a program of home  
26           confinement or electronic monitoring but may not include a secure detention stay.
- 27       8. The director or assigned probation court officer may request two extensions up to four  
28           months each or one extension up to four months for intensive supervised probation  
29           programs for failure to comply or meet the treatment goals of the court order and case  
30           plan.

1       9. Probation may not be extended solely to collect restitution. If probation is terminated  
2       with restitution owing the victim, court procedure governs continued collection or  
3       motion for civil judgment against the parents, if appropriate.

4       **27-20.4-19. Delinquent children - Suspension of driving privileges.**

- 5       1. If a child is adjudicated delinquent of an offense that would be a class A misdemeanor  
6       or a felony if the offense were committed by an adult, the juvenile court may order the  
7       suspension of the child's driving privileges for a period of up to six months for the first  
8       offense. For a second or subsequent offense, the juvenile court may order the  
9       suspension of the child's driving privileges for up to one year. As a condition to the  
10      return of driving privileges, the juvenile court may order the successful completion of  
11      an appropriate driver's examination.
- 12      2. If the juvenile court orders the suspension of a child's driving privileges, the juvenile  
13      court immediately shall take possession of the child's driver's license or permit and  
14      send copies of the court's order to the director of the department of transportation who  
15      shall make notation of the child's suspension of driving privileges.
- 16      3. The record of the child's suspension of driving privileges under this section must be  
17      kept confidential and may not be released except to law enforcement personnel in  
18      connection with law enforcement activities. The record of a child's suspension of  
19      driving privileges under this section may not be disclosed to or shared with the  
20      licensing officials of any other state or jurisdiction. At the end of the six-month or  
21      one-year period, the director shall remove and destroy all record of the child's  
22      suspension of driving privileges under this section.
- 23      4. This section may not be construed to limit consensual agreements between the  
24      juvenile court and the child restricting the driving privileges of the child.

25      **27-20.4-20. Restitution.**

- 26      1. In addition to a child being ordered to make restitution under section 27-20.4-16, a  
27      parent of a child adjudged delinquent may be ordered to make restitution on the child's  
28      behalf in an amount not exceeding five thousand dollars.
- 29      2. Before ordering parental restitution under this section, the court shall hold a hearing on  
30      the matter with notice given to all interested parties as to the nature and amount of the

1           parental restitution. In determining whether to order parental restitution, the court shall  
2           take the following factors into account:

3           a. The ability of the parent or parents to pay monetary restitution and the care and  
4           control exercised by the parents.

5           b. The ability of the child to pay monetary restitution.

6           c. Whether ordering parental restitution would detract from the child's treatment,  
7           rehabilitation, or welfare.

8           d. The number of delinquent acts, if any, previously committed by the child.

9           3. A parental order of restitution must be limited to those damages directly related to the  
10           delinquent act and expenses actually incurred as a result of the delinquent act.

11           4. Unless the court directs otherwise, any order of restitution under this section or section  
12           27-20.4-16 may be filed, transcribed, and enforced by the juvenile court or person  
13           entitled to the restitution in the same manner as civil judgments rendered by the courts  
14           of this state may be enforced. A child against whose parents a judgment may be  
15           entered under this section is jointly and severally liable with that child's parents for the  
16           amounts up to five thousand dollars and solely liable for any amounts over that  
17           amount. Any judgment rendered under this section may not be discharged in  
18           bankruptcy and is not subject to the statutes of limitation provided for in chapter 28-01  
19           and the judgment may not be canceled under section 28-20-35.

20           **27-20.4-21. Transfer to other courts.**

21           1. After a petition has been filed alleging delinquency based on conduct that is  
22           designated a crime or public offense under the laws, including local ordinances or  
23           resolutions of this state, the court before hearing the petition on the merits shall  
24           transfer the offense for prosecution to the appropriate court having jurisdiction of the  
25           offense if:

26           a. The child is over sixteen years of age and requests the transfer;

27           b. The child was fourteen years of age or more at the time of the alleged conduct  
28           and the court determines that there is probable cause to believe the child  
29           committed the alleged delinquent act and the delinquent act involves the offense  
30           of murder or attempted murder; gross sexual imposition or the attempted gross

- 1                   sexual imposition of a victim by force or by threat of imminent death, serious  
2                   bodily injury, or kidnapping; or
- 3           c.   (1)   The child was fourteen or more years of age at the time of the alleged  
4                   conduct;
- 5                   (2)   A hearing on whether the transfer should be made is held in conformity with  
6                   sections 27-20.2-12, 27-20.2-13, and 27-20.4-14;
- 7                   (3)   Notice in writing of the time, place, and purpose of the hearing is given to  
8                   the child and the child's parents, guardian, or other custodian at least three  
9                   days before the hearing; and
- 10                  (4)   The court finds that there are reasonable grounds to believe:
- 11                           (a)   The child committed the delinquent act alleged;
- 12                           (b)   The child is not amenable to treatment or rehabilitation as a child  
13                                   through available programs;
- 14                           (c)   The child is not treatable in an institution for individuals who are  
15                                   intellectually disabled or who are mentally ill;
- 16                           (d)   The interests of the community require that the child be placed under  
17                                   legal restraint or discipline; and
- 18                           (e)   If the child is fourteen or fifteen years old, the child committed a  
19                                   delinquent act involving the infliction or threat of serious bodily harm.
- 20           2.   The burden of proving reasonable grounds to believe that a child is amenable to  
21                   treatment or rehabilitation as a child through available programs is on the child in  
22                   those cases in which the alleged delinquent act involves the offense of manslaughter,  
23                   aggravated assault, robbery, arson involving an inhabited structure, or escape  
24                   involving the use of a firearm, destructive device, or other dangerous weapon or in  
25                   cases in which the alleged delinquent act involves an offense that if committed by an  
26                   adult would be a felony and the child has two or more previous delinquency  
27                   adjudications for offenses that would be a felony if committed by an adult.
- 28           3.   In determining a child's amenability to treatment and rehabilitation, the court shall  
29                   consider and make specific findings on the following factors:
- 30                   a.   Age;
- 31                   b.   Mental capacity;

- 1           c. Maturity;  
2           d. Degree of criminal sophistication exhibited;  
3           e. Previous record;  
4           f. Success or failure of previous attempts to rehabilitate;  
5           g. Whether the child can be rehabilitated before expiration of juvenile court  
6           jurisdiction;  
7           h. Any psychological, probation, or institutional reports;  
8           i. The nature and circumstances of the acts for which the transfer is sought;  
9           j. The prospect for adequate protection of the public; and  
10          k. Any other relevant factors.
- 11          4. A child subject to the jurisdiction of the juvenile court, either before or after reaching  
12          eighteen years of age, may not be prosecuted for an offense previously committed  
13          unless the case has been transferred as provided in this section.
- 14          5. Statements made by the child at a hearing under this section are not admissible  
15          against the child over objection in the criminal proceedings following the transfer  
16          except for impeachment.
- 17          6. If the case is not transferred, the judge who conducted the hearing may not over  
18          objection of an interested party preside at the hearing on the petition. If the case is  
19          transferred to a court of which the judge who conducted the hearing is also a judge,  
20          the judge likewise is disqualified over objection from presiding in the prosecution.
- 21          7. An individual at least twenty years of age who committed an offense while a child and  
22          was not adjudicated for the offense in juvenile court may be prosecuted in district court  
23          as an adult, unless the state intentionally delayed the prosecution to avoid juvenile  
24          court jurisdiction. The district court has original and exclusive jurisdiction for the  
25          prosecution under this subsection.

26          **27-20.4-22. Court order required for removal of child.**

27          An order of disposition or other adjudication in a proceeding under this chapter, in cases in  
28          which a child is removed from the home of a parent, custodian, or guardian for the reason that  
29          continuation in such home would be contrary to the welfare of the child, must specifically state  
30          that a continuation of the child in the home of the parent, custodian, or guardian would be  
31          contrary to the welfare of the child.



1       **27-20.4-23. Limitations of orders of disposition.**

- 2       1. An order of disposition may not exceed twelve months from disposition unless  
3       extended by the court. The director or designee may request two extensions up to four  
4       months each for the child to complete the treatment goals of the court order and the  
5       case plan.
- 6       2. An order of disposition committing a delinquent child to the division of juvenile services  
7       may not exceed twelve months. The court may extend the order for an additional  
8       twelve-month period, if:
- 9       a. A hearing is held upon motion of the division, or on the court's own motion, prior  
10       to the expiration of the order;
- 11       b. Reasonable notice of the hearing and an opportunity to be heard are given to the  
12       child and the parent, guardian, or other custodian;
- 13       c. The court finds the extension is necessary for the treatment or rehabilitation of  
14       the child; and
- 15       d. The extension does not exceed twelve months from the expiration of an order  
16       limited by subsection 3 or two years from the expiration of any other limited order.
- 17       3. Except as provided in subsection 2, an order of disposition pursuant to which a child is  
18       placed in foster care may not continue for more than twelve months after the child is  
19       considered to have entered foster care. A permanency hearing must be conducted  
20       before the extension of any court order limited under this subsection. Any other order  
21       of disposition may not continue in force for more than twelve months.
- 22       4. The court may terminate an order of disposition before the expiration of the order.
- 23       5. Except as provided in subsection 2, the court may terminate an order of disposition or  
24       extension before its expiration, on or without an application of a party, if it appears to  
25       the court the purposes of the order have been accomplished. If a party may be  
26       adversely affected by the order of termination, the order may be made only after  
27       reasonable notice and opportunity to be heard have been given to the party.
- 28       6. When the child attains the age of twenty years, all orders affecting the child then in  
29       force terminate and the child is discharged from further obligation or control.

1       **27-20.4-24. Reasonable efforts to prevent removal or to reunify - When required.**

2       1. As used in this section, "reasonable efforts" means the exercise of due diligence, by  
3       the agency granted authority over the child under this chapter, to use appropriate and  
4       available services to meet the needs of the child and the child's family in order to  
5       prevent removal of the child from the child's family or, after removal, to use appropriate  
6       and available services to eliminate the need for removal, to reunite the child and the  
7       child's family, and to maintain family connections. In determining reasonable efforts to  
8       be made with respect to a child under this section, and in making reasonable efforts,  
9       the child's health and safety must be the paramount concern.

10      2. Except as provided in subsection 4, reasonable efforts must be made to preserve  
11      families, reunify families, and maintain family connections:

12      a. Before the placement of a child in foster care, to prevent or eliminate the need for  
13      removing the child from the child's home;

14      b. To make it possible for a child to return safely to the child's home;

15      c. Whether and, if applicable, to place siblings in the same foster care, relative,  
16      guardianship, or adoptive placement, unless it is determined that such a joint  
17      placement would be contrary to the safety or well-being of any of the siblings;  
18      and

19      d. In the case of siblings removed from the home of the siblings who are not jointly  
20      placed, to provide for frequent visitation or other ongoing interaction between the  
21      siblings, unless it is contrary to the safety or well-being of any of the siblings.

22      3. If the court or the child's custodian determined that continuation of reasonable efforts,  
23      as described in subsection 2, is inconsistent with the permanency plan for the child,  
24      reasonable efforts must be made to place the child in a timely manner in accordance  
25      with the permanency plan and to complete whatever steps are necessary to finalize  
26      the permanent placement of the child.

27      4. Reasonable efforts of the type described in subsection 2 are not required if:

28      a. A court of competent jurisdiction has determined a parent has subjected a child to  
29      aggravated circumstances; or

30      b. The parental rights of the parent, with respect to another child of the parent, have  
31      been involuntarily terminated.

- 1       5. Efforts to place a child for adoption, with a fit and willing relative or other appropriate  
2       individual as a legal guardian, or in another planned permanent living arrangement,  
3       may be made concurrently with reasonable efforts of the type described in  
4       subsection 2.
- 5       6. Removal of a child from the child's home for placement in foster care must be based  
6       on judicial findings stated in the court's order, and determined on a case-by-case basis  
7       in a manner that complies with the requirements of titles IV-B and IV-E of the federal  
8       Social Security Act [42 U.S.C. 620 et seq. and 42 U.S.C. 6701 et seq.], as amended,  
9       and federal regulations adopted under those federal laws, provided that this  
10      subsection may not provide a basis for overturning an otherwise valid court order.
- 11      7. For the purpose of section 27-20.3-17, reasonable efforts were made under this  
12      section to meet the child's needs before a foster care placement for a child remaining  
13      in care for continued foster care purposes.

14      **27-20.4-25. Law enforcement and correctional facility records.**

- 15      1. Unless a charge of delinquency is transferred for criminal prosecution under section  
16      27-20.4-20, the interest of national security requires, or the court otherwise orders in  
17      the interest of the child, the law enforcement and correctional facility records and files  
18      of a child alleged or found to be delinquent or in need of services or protection are not  
19      open to public inspection; but inspection of these records and files is permitted by:
- 20      a. A juvenile court having the child before the court in any proceeding;  
21      b. Counsel for a party to the proceeding;  
22      c. The officers of public institutions or agencies to whom the child is or may be  
23      committed;  
24      d. Law enforcement officers of other jurisdictions if necessary for the discharge of  
25      official duties of the officers;  
26      e. A court in which the child is convicted of a criminal offense for the purpose of a  
27      presentence report or other dispositional proceeding, or by officials of correctional  
28      facilities to which the child is detained or committed, or by the parole board, the  
29      governor, or the pardon advisory board, if one has been appointed, in considering  
30      the child's parole or discharge or in exercising supervision over the child;

- 1           f. The professional staff of the uniform crime victims compensation program if  
2           necessary for the discharge of the duties of the professional staff pursuant to  
3           chapter 54-23.4; and
- 4           g. A superintendent, assistant superintendent, principal, or designee of the school in  
5           which the child is currently enrolled or of a school in which the child wishes to  
6           enroll.
- 7           2. Notwithstanding that law enforcement records and files of a child alleged or found to  
8           be delinquent or in need of services or protection are not open to public inspection,  
9           this section does not limit the release of general information that does not identify the  
10          identity of the child.

11          **SECTION 25. AMENDMENT.** Subsections 2 and 3 of section 27-21-02 of the North Dakota  
12 Century Code are amended and reenacted as follows:

- 13          2. Placement in the care of the North Dakota youth correctional center ~~or in a career and~~  
14          ~~technical education, training, or other treatment and rehabilitation institution for~~  
15          ~~children or young adults within this state;~~ or
- 16          3. Placement in the care of a career and technical education, training, or other treatment  
17          and rehabilitation institution for children or young adults within this state or in another  
18          state in the event that adequate facilities for the child's treatment and rehabilitation are  
19          not available within this state and the committing juvenile court concurs in the  
20          placement.

21          **SECTION 26. AMENDMENT.** Subsection 3 of section 27-21-02.1 of the North Dakota  
22 Century Code is amended and reenacted as follows:

- 23          3. The division may conduct a permanency hearing, as authorized by section  
24          ~~27-20-36~~27-20.4-23, if an appropriate permanency plan may be carried out without  
25          exceeding the division's authority.

26          **SECTION 27. AMENDMENT.** Section 27-21-09 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28          **27-21-09. Cooperation with other agencies and departments of the state - Right to**  
29 **inspect facilities of state institutions - Right to examine children.**

- 30          1. The division of juvenile services may enter contracts with service providers as  
31          necessary to meet the mission of the division.

1       2. The division of juvenile services shall cooperate with and receive the cooperation of  
2       the department of human services, the department of public instruction, the  
3       department of career and technical education, the juvenile courts, the state  
4       department of health, and such other agencies and departments of the state as may  
5       be necessary to carry out the objectives of this chapter.

6       3. The division of juvenile services may inspect at all reasonable times the facilities of  
7       those institutions within the state it is authorized to utilize under this chapter, and may  
8       examine any child it has placed in the care of such institution, and may contract with  
9       public and private agencies to provide services for them or to retain from them  
10      required services to meet the purpose and objective of this chapter.

11      **SECTION 28. AMENDMENT.** Subsections 2 and 5 of section 27-21-12 of the North Dakota  
12      Century Code are amended and reenacted as follows:

- 13      2. Notwithstanding any other provisions of law relating to confidentiality, except for the  
14      confidentiality requirements of federal drug and alcohol treatment and rehabilitation  
15      laws, the division may disclose all or part of a juvenile's files and records, including  
16      juvenile court orders, medical, psychological, education, and treatment and counseling  
17      records, to individuals employed by the following if the knowledge is reasonably  
18      necessary in the best interest of the juvenile and for the protection of others:
- 19      a. The district court or juvenile court.
  - 20      b. A parent or legal guardian of the juvenile, the parent's or legal guardian's  
21      counsel, or the juvenile's counsel, when the juvenile court has committed the  
22      juvenile to the custody of the division of juvenile services, and the records are  
23      relevant to a proceeding under chapter ~~27-20~~27-20.4 or to a placement hearing  
24      under section 27-21-02.1, or when disclosure is necessary for the juvenile's  
25      treatment and rehabilitation plan. If the juvenile court determines that it is against  
26      the best interests of the juvenile to disclose records to a parent or legal guardian,  
27      the juvenile court may issue an order prohibiting disclosure and describing the  
28      records that may not be disclosed.
  - 29      c. An employee or agent of any division of the department of corrections and  
30      rehabilitation when necessary to carry out the duties of the department.
  - 31      d. The department of human services or a human service zone.

- 1 e. A licensed hospital or medical facility, a public or private treatment facility, or a  
2 residential care or treatment facility, when necessary for the evaluation,  
3 treatment, or care of a juvenile in the custody of the division of juvenile services.
- 4 f. A law enforcement agency when the division has reasonable grounds to believe  
5 the juvenile has committed a delinquent act or has threatened to commit a  
6 delinquent act involving serious bodily injury, or when the juvenile is required to  
7 register, or is registered, under section 12.1-32-15.
- 8 g. A school district or multidistrict special education program in which the juvenile is  
9 enrolled.
- 10 h. The office of the attorney general.
- 11 i. The risk management division of the office of management and budget and  
12 investigators, consultants, or experts retained by the state for the purpose of  
13 investigating and defending claims under chapter 32-12.2.
- 14 5. The division may disclose the files and records of a juvenile under ~~subdivision f or g of~~  
15 ~~subsection 1 of section 27-20-51~~section 27-20.2-22.

16 **SECTION 29. AMENDMENT.** Section 30.1-27-02 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **30.1-27-02. (5-202) Testamentary appointment of guardian of minor.**

19 The parent of a minor may appoint by will a guardian of an unmarried minor. A testamentary  
20 appointment becomes effective upon filing the guardian's acceptance in the court in which the  
21 will is probated and remains effective upon approval by the court either after or without a  
22 hearing, if, before acceptance, both parents are dead or the surviving parent's rights have been  
23 terminated by prior court order. If both parents are dead, an effective appointment by the parent  
24 who died later has priority. This state recognizes a testamentary appointment effected by filing  
25 the guardian's acceptance under a will probated in another state which is the testator's domicile  
26 and upon approval by the court either after or without a hearing. Upon acceptance of  
27 appointment, written notice of acceptance must be given by the guardian to the minor and to the  
28 person having the minor's care or to the minor's nearest adult relative under ~~section 27-20-02-~~  
29 27-20.3-02. Within forty-five days of the filing of acceptance, the testamentary guardian must  
30 file with the court a criminal history record check report and affidavit stating whether the  
31 proposed guardian has been investigated for offenses related to theft, fraud, or the abuse,

1 neglect, or exploitation of an adult or child and shall provide a release authorizing access to any  
2 record information maintained by an agency in this or another state or a federal agency.

3 **SECTION 30. AMENDMENT.** Subsection 3 of section 30.1-27-06 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5 3. The guardian ad litem shall serve a copy of the report on the minor if the minor is  
6 fourteen years of age or older, the testamentary guardian, the person having the  
7 minor's care or the minor's nearest adult relative under section ~~27-20-02~~27-20.3-02,  
8 and the personal representative of the deceased parent's estate.

9 **SECTION 31. AMENDMENT.** Section 39-06-32.1 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **39-06-32.1. Suspension of child's driving privileges.**

12 Upon receipt of a copy of an order of a juvenile court ordering the suspension of a child  
13 operator's license, the director shall suspend the operator's license and make notation of the  
14 length of time of the suspension. During the time of the suspension, an application for a class D  
15 instruction permit may not be accepted from the child. For purposes of this section, "child" is  
16 defined by section ~~27-20-02~~27-20.4-02.

17 **SECTION 32. AMENDMENT.** Subsection 2 of section 39-20-01 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19 2. The test or tests must be administered at the direction of a law enforcement officer  
20 only after placing the individual under arrest for violation of section 39-08-01 or an  
21 equivalent offense. For the purposes of this chapter, the taking into custody of a child  
22 under section ~~27-20-13~~27-20.4-05 or an individual under twenty-one years of age  
23 satisfies the requirement of an arrest. The law enforcement officer shall determine  
24 which of the tests is to be used.

25 **SECTION 33. AMENDMENT.** Section 39-24.1-01 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **39-24.1-01. Implied consent to determine alcohol concentration and presence of**  
28 **drugs.**

29 An individual who operates a snowmobile on any public land or private land with public  
30 access is deemed to have given consent, and shall consent, subject to this chapter, to a  
31 chemical test, or tests, of the blood, breath, or urine for the purpose of determining the alcohol

1 concentration or presence of other drugs, or combination thereof, in the individual's blood,  
2 breath, or urine. As used in this chapter, the definitions in section 39-24-01 apply, and in  
3 addition, "chemical test" means any test or tests to determine the alcohol concentration or  
4 presence of other drugs, or combination thereof, in the individual's blood, breath, or urine,  
5 approved by the director of the state crime laboratory or the director's designee under this  
6 chapter; and "drug" means any drug or substance or combination of drugs or substances which  
7 renders an individual incapable of safely operating a snowmobile. The chemical test must be  
8 administered at the direction of a law enforcement officer only after placing the individual,  
9 except individuals mentioned in section 39-24.1-04, under arrest and informing that individual  
10 that the individual is or will be charged with the offense of operating a snowmobile while under  
11 the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this  
12 chapter, the taking into custody of a minor under section ~~27-20-13~~27-20.4-05 satisfies the  
13 requirement of an arrest. The law enforcement officer shall also inform the individual charged  
14 that refusal of the individual to submit to the chemical test determined appropriate will result in  
15 that individual being prohibited from operating a snowmobile for up to three years. The law  
16 enforcement officer shall determine the chemical test to be used. When a minor is taken into  
17 custody for violating subdivision c of subsection 5 of section 39-24-09, the law enforcement  
18 officer shall diligently attempt to contact the minor's parent or legal guardian to explain the  
19 cause for the custody and the implied consent chemical testing requirements. Neither the law  
20 enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian  
21 may be permitted to interfere with the administration of chemical testing requirements under this  
22 chapter.

23 **SECTION 34. AMENDMENT.** Subsection 5 of section 50-06-05.1 of the North Dakota  
24 Century Code is amended and reenacted as follows:

25 5. To provide for the study, and to promote the well-being, of ~~deprived~~a child in need of  
26 protection, unfulfilled child in need of services, and delinquent children.

27 **SECTION 35. AMENDMENT.** Subdivision a of subsection 4 of section 50-06-43.2 of the  
28 North Dakota Century Code is amended and reenacted as follows:

29 a. Review ~~chapter 27-20~~chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4;

30 **SECTION 36. AMENDMENT.** Subsection 1 of section 50-11.3-01 of the North Dakota  
31 Century Code is amended and reenacted as follows:



- 1           1. Before appointment as a legal guardian under chapter ~~27-20~~27-20.1, the individual to  
2           be appointed legal guardian must be subject to an assessment that includes the result  
3           of a criminal history record investigation made under this section. In addition, any adult  
4           living in the household of the individual to be appointed legal guardian must be subject  
5           to a criminal history record investigation made under this section.

6           **SECTION 37. AMENDMENT.** Subsection 4 of section 50-25.1-15 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8           4. If an infant is left at a hospital, the hospital shall provide the parent or the agent with a  
9           numbered identification bracelet to link the parent or the agent to the infant, unless  
10          due to birth of the infant, the infant and parent currently have an identification bracelet.  
11          Possession of an identification bracelet does not entitle the bracelet holder to take  
12          custody of the infant on demand. If an individual possesses a bracelet linking the  
13          individual to an infant left at a hospital under this section and parental rights have not  
14          been terminated, possession of the bracelet creates a presumption that the individual  
15          has standing to participate in a protection services action brought under this chapter or  
16          chapter ~~27-20~~27-20.3. Possession of the bracelet does not create a presumption of  
17          maternity, paternity, or custody.

18          **SECTION 38. AMENDMENT.** Subsection 2 of section 54-12-34 of the North Dakota Century  
19 Code is amended and reenacted as follows:

- 20          2. The criminal justice data information sharing system may be accessed only in  
21          accordance with rules adopted under this section. Any law enforcement record in the  
22          possession of the attorney general through the criminal justice data information  
23          sharing system is an exempt record. Criminal justice data information about an offense  
24          committed by a child if the offense has not been transferred under  
25          section ~~27-20-34~~27-20.4-21 to another court having jurisdiction of the offense and  
26          information about a child victim or witness is confidential.

27          **SECTION 39. AMENDMENT.** Section 54-23.4-17 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29          **54-23.4-17. Confidentiality of records.**

- 30          Juvenile or law enforcement records obtained under chapter ~~27-20~~27-20.4 may be released  
31 to the parties, their counsel, and representatives of the parties in proceedings before the

1 division and must be sealed at the conclusion of the proceedings. All other records of the  
2 division concerning the application for or award of compensation under this chapter are  
3 confidential and are not open to public disclosure. Inspection of these records, however, must  
4 be permitted by:

- 5 1. Law enforcement officers when necessary for the discharge of their official duties.
- 6 2. Representatives of a claimant, whether an individual or an organization, who may  
7 review a claim file or receive specific information from the file upon the presentation of  
8 the signed authorization of the claimant.
- 9 3. Physicians or health care providers treating or examining persons claiming benefits  
10 under this title, or physicians giving medical advice to the division regarding any claim,  
11 at the discretion of the division.
- 12 4. Any person who is rendering assistance to the division at any stage of the proceedings  
13 on any matter pertaining to the administration of this chapter.
- 14 5. Juvenile or law enforcement records obtained under chapter ~~27-2027-20.4~~ may be  
15 released to the parties, their counsel, and representatives in proceedings before the  
16 division and must be sealed at the conclusion of the proceedings.

17 **SECTION 40. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **62.1-02-01. Persons who are not to possess firearms - Penalty.**

- 20 1. a. A person who has been convicted anywhere of a felony offense involving  
21 violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an  
22 equivalent felony offense of another state or the federal government is prohibited  
23 from owning a firearm or having one in possession or under control from the date  
24 of conviction and continuing for a period of ten years after the date of conviction  
25 or the date of release from incarceration, parole, or probation, whichever is latest.
- 26 b. A person who has been convicted anywhere of a felony offense of this or another  
27 state or the federal government not provided for in subdivision a or who has been  
28 convicted of a class A misdemeanor offense involving violence or intimidation in  
29 violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another  
30 state or the federal government and the offense was committed while using or  
31 possessing a firearm, a dangerous weapon, or, as defined in section 12.1-01-04,

1 a destructive device or an explosive, is prohibited from owning a firearm or  
2 having one in possession or under control from the date of conviction and  
3 continuing for a period of five years after the date of conviction or the date of  
4 release from incarceration, parole, or probation, whichever is latest.

5 c. A person who is or has ever been diagnosed and confined or committed to a  
6 hospital or other institution in this state or elsewhere by a court of competent  
7 jurisdiction, other than a person who has had the petition that provided the basis  
8 for the diagnosis, confinement, or commitment dismissed under section  
9 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another  
10 jurisdiction, as a person requiring treatment as defined in section 25-03.1-02, or  
11 as a mentally deficient individual, is prohibited from purchasing a firearm or  
12 having one in possession or under control. This limitation does not apply to a  
13 person who has not suffered from the disability for the previous three years or  
14 who has successfully petitioned for relief under section 62.1-02-01.2.

15 d. A person under the age of eighteen years may not possess a handgun except  
16 that such a person, while under the direct supervision of an adult, may possess a  
17 handgun for the purposes of firearm safety training, target shooting, or hunting.

18 A person who violates subdivision a or b is guilty of a class C felony, and a person who  
19 violates subdivision c or d is guilty of a class A misdemeanor.

20 2. For the purposes of this section, "conviction" means a determination that the person  
21 committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty,  
22 or a plea of nolo contendere even though:

23 a. The court suspended execution of sentence in accordance with subsection 3 of  
24 section 12.1-32-02;

25 b. The court deferred imposition of sentence in accordance with subsection 4 of  
26 section 12.1-32-02;

27 c. The court placed the person on probation;

28 d. The person's conviction has been reduced in accordance with subsection 9 of  
29 section 12.1-32-02 or section 12.1-32-07.1;

- 1 e. Sentence dispositions, sentence reductions, or offense determinations equivalent  
2 to this section were imposed or granted by a court, board, agency, or law of  
3 another state or the federal government; or
- 4 f. The person committed an offense equivalent to an offense described in  
5 subdivision a or b of subsection 1 when that person was subject to juvenile  
6 adjudication or proceedings and a determination of a court under chapter  
7 ~~27-20~~27-20.4 or of a court of another state or the federal government was made  
8 that the person committed the delinquent act or offense.
- 9 3. A felon who is not sentenced under section 12.1-32-09.1 may possess a rifle that has  
10 a barrel sixteen inches [40.72 centimeters] or longer or a shotgun that has a barrel  
11 eighteen inches [45.72 centimeters] or longer and which is one of the following:
- 12 a. A firearm, including any firearm with a matchlock, flintlock, percussion cap, or  
13 similar type of ignition system, manufactured before 1899.
- 14 b. A replica of any firearm described in subdivision a, if the replica is not designed  
15 or redesigned for using rimfire or conventional centerfire fixed ammunition or  
16 uses rimfire or conventional centerfire fixed ammunition that is no longer  
17 manufactured in the United States and which is not readily available in the  
18 ordinary channels of commercial trade.
- 19 c. A muzzleloading rifle or muzzleloading shotgun designed to use black powder or  
20 a black powder substitute and which cannot use fixed ammunition.

21 **SECTION 41. REPEAL.** Chapter 27-20 and section 27-21-03 of the North Dakota Century  
22 Code are repealed.