

February 18, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1556

Introduced by

Representatives Stemen, Beltz, Hagert, O'Brien, Ostlie, Dockter, Nelson

Senators Lee, Roers, Davison

1 A BILL ~~for an Act to create and enact a new subsection to section 14-15-19 of the North Dakota~~
2 ~~Century Code, relating to relinquishment of parental rights of adoptive parents.~~for an Act to
3 amend and reenact subsection 5 of section 27-20.3-01, and sections 27-20.3-15 and
4 27-20.3-21 of the North Dakota Century Code, relating to a child in need of protection and
5 termination of parental rights; and to declare an emergency.

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

7 ~~SECTION 1. A new subsection to section 14-15-19 of the North Dakota Century Code is~~
8 ~~created and enacted as follows:~~

9 ~~Notwithstanding any other provision in this section, an adoptive parent may petition~~
10 ~~the court to relinquish parental rights of an adopted child if extreme circumstances~~
11 ~~exist.~~

12 ~~a. For purposes of this subsection, "extreme circumstances" means the:~~

13 ~~(1) Adopted child has been diagnosed with a severe mental health condition or~~
14 ~~behavioral health disorder by a licensed child psychologist or psychiatrist;~~

15 ~~(2) Adopted child has committed an act of a violent or sexual nature against~~
16 ~~another family member living in the household which if committed by an~~
17 ~~adult would be considered a crime under the laws of this state; and~~

18 ~~(3) Adoptive parent is unable to provide proper control of the adopted child and~~
19 ~~is in imminent fear for the safety of a family member living in the same~~
20 ~~household as the adopted child.~~

- 1 ~~b. If the court finds credible evidence that extreme circumstances exist, there is a~~
2 ~~rebuttable presumption the adoptive parent's petition to relinquish parental rights~~
3 ~~of an adopted child must be granted. This presumption may be overcome only by~~
4 ~~clear and convincing evidence that proper safeguards can be implemented to~~
5 ~~ensure the safety of each family member living in the household with the adopted~~
6 ~~child.~~
- 7 ~~c. The burden of proof is on the petitioner to show extreme circumstances exist.~~
- 8 ~~d. A petition brought under this subsection must identify the department as a~~
9 ~~respondent.~~

10 **SECTION 1. AMENDMENT.** Subsection 5 of section 27-20.3-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 5. "Child in need of protection" means a child who:
- 13 a. Is without proper parental care or control, subsistence, education as required by
14 law, or other care or control necessary for the child's physical, mental, or
15 emotional health, or morals, and the need for services or protection is not due
16 primarily to the lack of financial means of the child's parents, guardian, or other
17 custodian;
 - 18 b. Has been placed for care or adoption in violation of law;
 - 19 c. Has been abandoned by the child's parents, guardian, or other custodian;
 - 20 d. Is without proper parental care, control, or education as required by law, or other
21 care and control necessary for the child's well-being because of the physical,
22 mental, emotional, or other illness or disability of the child's parent or parents,
23 and that such lack of care is not due to a willful act of commission or act of
24 omission by the child's parents, and care is requested by a parent;
 - 25 e. Is in need of treatment and whose parents, guardian, or other custodian have
26 refused to participate in treatment as ordered by the juvenile court;
 - 27 f. Was subject to prenatal exposure to chronic or severe use of alcohol or any
28 controlled substance as defined in chapter 19-03.1 in a manner not lawfully
29 prescribed by a practitioner;

1 g. Is present in an environment subjecting the child to exposure to a controlled
2 substance, chemical substance, or drug paraphernalia as prohibited by section
3 19-03.1-22.2; ~~or~~

4 h. Is a victim of human trafficking as defined in title 12.1; or

5 i. Is in need of care and treatment and:

6 (1) Has been diagnosed with a severe mental health condition or behavioral
7 health disorder by a licensed child psychologist or psychiatrist;

8 (2) Has committed an act of a violent or sexual nature against another family
9 member living in the household, which if committed by an adult would be
10 considered a crime under the laws of this state; and

11 (3) Whose parent is unable to provide proper control of the child and is in fear
12 for the safety of a family member living in the same household as the child.

13 **SECTION 2. AMENDMENT.** Section 27-20.3-15 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **27-20.3-15. Disposition of a child in need of protection.**

16 1. If a child is found to be a child in need of protection, the court may make any of the
17 following orders of disposition best suited to the protection of the child or family and
18 the physical, mental, and moral welfare of the child:

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

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

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

26 (2) The director of the human service zone to receive and provide care for the
27 child.

28 c. Require the child or parents, guardian, or other custodian to participate in
29 treatment.

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

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

6 2. Without a compelling reason to the contrary, a court order that transfers the child from
7 the current protective placement to a parent or other biological family must provide a
8 reasonable period of time to facilitate a beneficial transition for the child and other
9 parties involved.

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

12 **SECTION 3. AMENDMENT.** Section 27-20.3-21 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **27-20.3-21. Petition for termination of parental rights.**

15 1. As used in this section:

16 a. "A finding that the child has been subjected to child abuse or neglect" means:

17 (1) A finding of a child in need of protection made under this chapter, except as
18 provided in subdivision i of subsection 5 of section 27-20.3-01; or

19 (2) A conviction of a person, responsible for a child's welfare, for conduct
20 involving the child, under chapter 12.1-16 or sections 12.1-17-01 through
21 12.1-17-04 or 12.1-20-01 through 12.1-20-08.

22 b. "Compelling reason" means a recorded statement that reflects consideration of:

23 (1) The child's age;

24 (2) The portion of the child's life spent living in the household of a parent of the
25 child;

26 (3) The availability of an adoptive home suitable to the child's needs;

27 (4) Whether the child has special needs; and

28 (5) The expressed wishes of a child age ten or older.

29 c. "Department" means the department of health and human services.

1 d. "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.

4 2. A petition for termination of parental rights must be prepared, filed, and served upon
5 the parties by the state's attorney. A petition may also be prepared by any other
6 person that is not the court, including a law enforcement officer, who has knowledge of
7 the facts alleged or is informed and believes that they are true. A petition prepared by
8 any person other than a state's attorney may not be filed unless the director or the
9 court has determined the filing of the petition is in the best interest of the public and
10 the child.

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

13 a. If the child has been in foster care, in the custody of the department, human
14 service zone, or, in cases arising out of an adjudication by the court of a child in a
15 delinquency case, the division of juvenile services, for at least four hundred fifty
16 out of the previous six hundred sixty nights;

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

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

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

23 (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section
24 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the
25 parent; or

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

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

29 a. The child is being cared for by a relative approved by the human service zone;

30 b. The human service zone has documented in the case plan a compelling reason
31 for determining that filing such a petition would not be in the child's best interests

- 1 and has notified the court that the documentation is available for review by the
2 court; or
- 3 c. The human service zone has determined:
- 4 (1) Reasonable efforts to preserve and reunify the family are required under
5 section 27-20.3-26 to be made with respect to the child;
- 6 (2) The case plan provides such services are necessary for the safe return of
7 the child to the child's home; and
- 8 (3) Such services have not been provided consistent with time periods
9 described in the case plan.
- 10 5. For purposes of subsection 3, a child in foster care entered foster care on the earlier
11 of:
- 12 a. The date of the court's order if the court:
- 13 (1) Made a finding that the child has been subjected to child abuse or neglect or
14 the child is in need of protection under subdivision i of subsection 5 of
15 section 27-20.3-01;
- 16 (2) Determined that it is unsafe or contrary to the welfare of the child to remain
17 in the home; and
- 18 (3) Granted custody of the child to the human service zone or, in cases arising
19 out of an adjudication by the court that a child is in need of services, the
20 division of juvenile services; or
- 21 b. The date that is sixty days after:
- 22 (1) The date of a hearing under section 27-20.3-10 which results in maintaining
23 a child in shelter care;
- 24 (2) The date of an order in a dispositional hearing under which a child is placed
25 in foster care; or
- 26 (3) The date a child is placed in foster care voluntarily and with the consent of
27 the child's parent.
- 28 6. For purposes of subsection 3, a child leaves foster care at the time:
- 29 a. The court enters an order:
- 30 (1) Denying a petition to grant care, custody, and control of the child to the
31 human service zone or the division of juvenile services;

- 1 (2) Terminating an order that granted custody of the child to the human service
2 zone or the division of juvenile services; or
3 (3) Appointing a legal guardian under chapter 27-20.1;
4 b. The court order under which the child entered foster care ends by operation of
5 law;
6 c. The child is placed in a parental home by the court or a legal custodian other
7 than the division of juvenile services and the legal custodian lacks authority to
8 remove the child without further order of the court; or
9 d. The child is placed in a parental home by the division of juvenile services.
10 7. For purposes of subsection 3, a child is not in foster care on any night during which
11 the child is:
12 a. On a trial home visit;
13 b. Receiving services at the youth correctional center pursuant to an adjudication of
14 delinquency; or
15 c. Absent without leave from the place in which the child was receiving foster care.

16 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.