

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 295

HOUSE BILL NO. 1238
(Bunker, Haugland, Strinden, Weber)

JUDGES' SALARIES

AN ACT to amend and reenact section 27-02-02.1 of the North Dakota Century Code relating to salaries of supreme and district court judges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-02-02.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-02.1. ADDITIONAL COMPENSATION - SUPREME AND DISTRICT COURT JUDGES.) In addition to the judicial salaries provided by sections 27-02-02 and 27-05-03 of this code, each judge of the supreme court shall receive as additional salary the sum of four thousand dollars annually, and each district court judge shall receive as additional salary the sum of four thousand dollars annually, payable in equal monthly payments.

Approved March 18, 1971

CHAPTER 296

SENATE BILL NO. 2331
(Anderson, Longmire, Ringsak)

ADMINISTRATIVE SUPERVISION
BY SUPREME COURT

AN ACT to provide for administrative supervision by the supreme court over all courts and to implement the superintending control of the supreme court provided under section 86 of the Constitution of the state of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. ADMINISTRATION BY SUPREME COURT.) The supreme court shall have and exercise administrative supervision over all courts of this state and the judges, justices or magistrates of such courts under such rules, procedures and regulations as it shall from time to time prescribe. The supreme court shall provide to the extent it deems necessary or desirable, rules and regulations for:

- (1) Administrative supervision by the supreme court of all courts.
- (2) The assignment of judges, including consenting retired justices and judges, to temporary duty in any of the courts.
- (3) Administrative practice and procedure in all courts, including the required filing by all courts of all reports deemed necessary by the supreme court. All judges, clerks of court and other officers or employees of the courts and of offices related to and serving the courts shall comply with all administrative practice and procedure regulations promulgated by the supreme court.
- (4) The transfer of any matter to any proper court when the jurisdiction of any court has been improvidently invoked.
- (5) Withdrawal of any case or other matter pending before any judge and to reassign said proceeding or case to another judge, when, in the opinion of the supreme court, such withdrawal and reassignment should be made in order to expedite and promote justice.

- (6) The times and places for holding court when, in the opinion of the supreme court, it is necessary to do so to expedite disposition of pending matters.

SECTION 2. DECLARATION OF LEGISLATIVE INTENT.) It is the purpose of this Act to assist the judiciary in its superintending functions, to aid the judiciary in expediting judicial processes, to improve the handling of functions of all of the courts of this state, to provide for supervision by the highest court of this state over all courts and the judges, justices or magistrates of the judicial system, to implement the superintending control of the supreme court prescribed under Section 86 of the North Dakota Constitution, and to promote the general welfare of the people of the state, this statute is enacted.

Approved March 17, 1971

CHAPTER 297

HOUSE BILL NO. 1140
(Rundle)

DISPOSITION OF COURT FILING FEES

AN ACT to amend and reenact subsection 1 of section 11-17-04 and sections 11-17-05, 27-03-05, 27-03-06, 27-07-40, and 27-07-41 of the North Dakota Century Code, relating to court filing fees and the disposition of the proceeds thereof; and to repeal section 27-12-08 of the North Dakota Century Code, relating to the use of bar association funds; and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 11-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the filing of an action, including an action transferred from another county, and for all things in connection therewith which are not hereinafter provided for, seven dollars and fifty cents;

SECTION 2. AMENDMENT.) Section 11-17-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-05. CLERK TO KEEP FEE BOOK - MONTHLY REPORT TO COUNTY AUDITOR - PENALTY.) The clerk of the district court shall keep as a public record in his office a book to be provided by the county in which he shall enter all money received by him as fees for services rendered as such clerk. Within three days after the close of each calendar month and also at the close of his term of office, such clerk shall file with the county auditor a statement under oath showing the amount of fees which he has received as such officer since the date of his last report, and within three days thereafter he shall deposit with the county treasurer the total sum of such fees, except such fees as he is authorized expressly to retain. A clerk of court who shall neglect or omit to charge or collect the appropriate fees provided for in this chapter, or who shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor, with intent to evade any provision of this chapter, shall be guilty of a misdemeanor.

SECTION 3. AMENDMENT.) Section 27-03-05 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

27-03-05. FEES TO BE CHARGED AND COLLECTED BY CLERK OF SUPREME COURT.) The clerk of the supreme court shall charge and collect in advance a fee of fifteen dollars upon the filing in the supreme court of the record in any cause upon appeal, or upon the filing in such court of a petition in any cause seeking the exercise of the original jurisdiction thereof.

SECTION 4. AMENDMENT.) Section 27-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-03-06. FEES TO BE DEPOSITED MONTHLY WITH STATE TREASURER.) The clerk of the supreme court shall keep an accurate account of all fees received by him and shall deposit such fees monthly with the state treasurer.

SECTION 5. AMENDMENT.) Section 27-07-40 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-40. FILING FEES FOR ESTATES AND GUARDIANSHIPS - AMOUNT - WHEN AND WHERE TO BE PAID.) Before a petition for letters testamentary, of administration, of guardianship, of proceedings in heirship, or an application in joint tenancy to determine estate tax, is filed in a county court of this state, the petitioner, or someone on his behalf, shall pay a filing fee to said county court for deposit by that office into the county treasury of the county in which the court is located which shall be in the sum of seven dollars and fifty cents, except that the filing fee for applications in joint tenancy to determine estate tax shall be in the sum of three dollars and such filing fee for applications in joint tenancy to determine estate tax shall not be subject to the provisions of section 27-07-41.

SECTION 6. AMENDMENT.) Section 27-07-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-41. RECEIPTS FOR FILING FEES FOR ESTATES AND GUARDIANSHIPS - EXECUTION - FILING.) When a filing fee for an estate or for a guardianship is paid to the treasurer of the proper county, he shall execute therefor duplicate receipts, one of which shall be filed with the county auditor and one with the judge of the county court.

SECTION 7. REPEAL.) Section 27-12-08 of the North Dakota Century Code is hereby repealed.

SECTION 8. EFFECTIVE DATE.) The provisions of this Act shall take effect on July 1, 1972.

Approved March 27, 1971

CHAPTER 298

HOUSE BILL NO. 1462
(Atkinson)

HEARINGS IN FAMILY COURT

AN ACT to amend and reenact section 27-05.1-09 of the North Dakota Century Code, relating to time and place of hearing on petition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-05.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-09. TIME AND PLACE OF HEARING ON PETITION.) The court may fix a time and place for hearing on the petition and issue its order setting forth notice of the filing of the petition and the time and place of the hearing and requiring the parties to appear at the time and place stated in the order. The court may at any time issue such order concerning the custody and care of the children of the marriage and restraining orders and orders for the support of a spouse and the children as it may deem necessary under the provisions of chapters 14-05 and 14-06 of the North Dakota Century Code.

Approved March 15, 1971

CHAPTER 299

SENATE BILL NO. 2096
(Freed)

PRORATING COURT
REPORTERS' SALARIES

AN ACT to amend and reenact section 27-06-02 of the North Dakota Century Code, relating to the prorating of salaries of court reporters among the counties of the judicial districts on the basis of population.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-06-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-02. SALARY AND EXPENSES OF COURT REPORTER.)

Each court reporter shall receive a salary not to exceed ten thousand five hundred dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be prorated among the respective counties of each judicial district on the basis of the ratio of the population of each county to the total population of the judicial district according to the last federal decennial census. The presiding judge of each judicial district, on the first day of January of each year, or as soon thereafter as may be, shall apportion the amount of such salary to be paid by each county in his district on the basis aforesaid, and the county auditors of the respective counties in such judicial district shall issue to the order of such court reporter a warrant to the amount shown to be due by such apportionment. As reimbursement for expenses incurred in the performance of official duties outside of the county where the district court chambers are situated, the court reporter shall receive expense allowances in accordance with the provisions of section 44-08-04. Such sums shall be paid monthly by the county wherein such court reporter is attending to such official duties, when approved by the board of county commissioners. Claims for transportation expenses shall not exceed amounts provided by section 54-06-09 and shall be in itemized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation expenses shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

Approved February 19, 1971

CHAPTER 300

HOUSE BILL NO. 1348
(Hoffner, Strinden, Atkinson)

BAILIFFS' SALARIES

AN ACT to amend and reenact sections 27-06-09 and 27-08-19 of the North Dakota Century Code, relating to the salaries of bailiffs of the district courts and county courts of increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-06-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-09. BAILIFFS OF DISTRICT COURTS - APPOINTMENT, SALARY.) The district court at each term thereof shall appoint a sufficient number of competent bailiffs to wait on the jury and the court during the term. Such bailiffs shall be allowed for their services fourteen dollars per day to be paid by the county.

SECTION 2. AMENDMENT.) Section 27-08-19 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-19. BAILIFFS OF COUNTY COURTS HAVING INCREASED JURISDICTION - APPOINTMENT, TERMS, POWERS, COMPENSATION.) The judge of a county court having increased jurisdiction may appoint one or more competent persons as bailiffs of the court. Such bailiffs shall hold office at the pleasure of the judge, shall have the same powers as a constable, and shall receive for their services fourteen dollars per day.

Approved March 12, 1971

CHAPTER 301

HOUSE BILL NO. 1321
(Mushik, Laughlin, Rocheleau)

RETENTION AND DESTRUCTION
OF CERTAIN COURT RECORDS

AN ACT to create and enact subsections 11, 12, and 13 of section 27-08-24 of the North Dakota Century Code; to amend and reenact sections 27-07-28, 27-07-36, and 27-08-10 of the North Dakota Century Code; and to repeal section 27-07-32 of the North Dakota Century Code, all relating to keeping and destroying various records of county courts and county courts having increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Subsections 11, 12, and 13 of section 27-08-24 of the 1969 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

11. In civil cases, a county court having increased jurisdiction shall keep an index conforming to the requirements of subsections 8 and 9 of section 11-17-01, a judgment docket as required by subsection 5 of section 11-17-01, a register of civil actions as required by subsection 7 of section 11-17-01, and the judgment roll as required by section 28-20-12. The civil judgment shall be entered by the clerk of court signing it and filing it with the judgment roll. No other records, books, or papers need be kept. After a judgment is satisfied or becomes ten years old, the court may destroy all the papers filed in the case except the judgment. When these papers are destroyed, the clerk of court shall note their destruction in the margin or elsewhere in the register of civil actions, identifying the destroyed papers and the destruction date.
12. In criminal cases, a county court having increased jurisdiction shall keep a register of criminal actions as required by subsection 11 of section 11-17-01 and the action record provided for in section 29-26-23. No other records, books, or papers need be kept. After a judgment, order of dismissal, judgment of acquittal, or order of bond forfeiture becomes six years old, the court may

destroy all the papers filed in the case except the judgment of conviction. When these papers are destroyed, the clerk of court shall note their destruction in the margin or elsewhere in the register of criminal actions, identifying the destroyed papers and the destruction date.

13. Nothing in this section shall be construed to conflict with the clerk of court's duties described in section 11-17-08.

SECTION 2. AMENDMENT.) Section 27-07-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-28. RECORDS OF COUNTY COURTS - PAPERS AND BOOKS CONSTITUTING.) The records of each county court consist of the original papers in the cases adjudicated or pending therein and the books prescribed in sections 27-07-29, 27-07-30, and 27-07-31.

SECTION 3. AMENDMENT.) Section 27-07-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-36. RECORDS OF COURT TO BE KEPT BY JUDGE - RECORDS OPEN TO PUBLIC INSPECTION.) The judge of each county court shall safely keep the records of such court and all documents and other papers lawfully entrusted to him by virtue of his office or in the course of any proceeding before him. At proper times, he shall deliver the same to the person entitled thereto or to his successor in office. The records of the court shall be open to inspection during office hours by persons having business therewith. The county judge may destroy the following records:

1. All papers contained in marriage files, except the original marriage license, if the license is at least five years old.
2. All mental health or insanity files more than twenty years old as determined by the date of the last paper filed. However, no patient's file shall be destroyed unless he has been dead six years. The judge's investigation shall determine if the patient is alive or his date of death. The clerk of court shall record the destruction and destruction date in the file's index.
3. All receipts, canceled checks, or vouchers filed in support of any report and account rendered by any executor, administrator, or guardian if the filing date of the report and account is at least six years old. When these are destroyed, the clerk of court

shall make a record of the destruction and the destruction date in the margin or elsewhere on the report and account affected.

SECTION 4. AMENDMENT.) Section 27-08-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-10. CUSTODY OF RECORDS OF COUNTY COURTS HAVING INCREASED JURISDICTION.) The judge of a county court having increased jurisdiction shall have the care and custody of all the records of the court which relate to actions or proceedings within its civil and criminal jurisdiction. The judge may destroy the following records:

1. All papers contained in marriage files, except the original marriage license, if the license is at least five years old.
2. All mental health or insanity files more than twenty years old as determined by the date of the last paper filed. However, no patient's file shall be destroyed unless he has been dead six years. The judge's investigation shall determine if the patient is alive or his date of death. The clerk of court shall record the destruction and destruction date in the file's index.
3. All receipts, canceled checks, or vouchers filed in support of any report and account rendered by any executor, administrator, or guardian if the filing date of the report and account is at least six years old. When these are destroyed, the clerk of court shall make a record of the destruction and the destruction date in the margin or elsewhere on the report and account affected.

SECTION 5. REPEAL.) Section 27-07-32 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1971

CHAPTER 302

SENATE BILL NO. 2199
(Holand, Lips, Longmire, Sanstead)

SALARY OF JUDGE OF COUNTY COURT
OF INCREASED JURISDICTION

AN ACT to amend and reenact section 27-08-08 of the North Dakota Century Code, relating to the salaries of judges of county courts of increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-08-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-08. SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION - AMOUNT, PAYMENT.) A county judge of a county court of this state having increased jurisdiction shall receive the following salary: twelve thousand five hundred dollars in counties having a population not exceeding fifteen thousand inhabitants; fifteen thousand five hundred dollars in counties having a population exceeding fifteen thousand inhabitants but not exceeding twenty-two thousand inhabitants; and seventeen thousand dollars in counties having a population exceeding twenty-two thousand inhabitants. Such salary shall be payable by the county in equal monthly installments and shall be full remuneration for all official duties including all fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies. All fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies shall be deposited by the court into the county treasury of the county in which the court is located.

Approved March 19, 1971

CHAPTER 303

HOUSE BILL NO. 1401
(Mushik, Atkinson, Fleming, Boustead, Gerl)

SMALL CLAIMS COURT

AN ACT to create a small claims court and to set forth its jurisdiction and procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. SMALL CLAIMS COURT - JURISDICTIONAL LIMITS - EFFECTIVE DATE.) All judges of the county courts with increased jurisdiction or the county justices shall exercise the jurisdiction conferred by this Act, and while sitting in the exercise of said jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court shall be confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed two hundred dollars. The proceedings in this court shall be commenced in the county of the defendant's residence, if the defendant is a natural person. If the defendant is a corporation or a partnership, the proceedings shall be commenced in any county in which the defendant has a place of business or in any county in which the subject matter of the claim arose. No claim shall be filed by an assignee of that claim. No garnishment or attachment shall issue from this court. Actions commenceable in the small claims court shall only be those in which the cause of action has accrued on or after January 1, 1971.

SECTION 2. COMMENCEMENT OF ACTION - CLAIM AFFIDAVIT.) Actions in the small claims court shall be commenced whenever any person executes and files with the court a claim affidavit, and serves same on the defendant or mails to him by certified mail along with an order for appearance setting a hearing. Such hearing shall be not less than five days and not more than thirty days after the service or receipt of the order. The mailing, or personal service, may be made anywhere within the state.

SECTION 3. INFORMAL HEARING - ANSWER AND COUNTER-CLAIM - FILING AND SERVICE FEES.) No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of all actions shall be informal. No court reporter shall be required to be present to take the

testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed two hundred dollars, which shall be delivered to the plaintiff in person, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule shall not apply to counterclaims in excess of two hundred dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. A trial by jury shall be deemed to be waived if neither party, before the commencement of the trial, demands a jury; or if either party fails to appear at the time fixed for the trial. Either party may demand a trial by jury. A jury shall be composed of six residents of the county having the qualifications of jurors, or of any number less than six if the parties so agree. A fee of two dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served. The North Dakota state bar association shall prepare standard printed forms to be used under this Act, and shall furnish the same upon request, at a charge not to exceed one dollar per set of forms.

SECTION 4. ELECTION TO PROCEED IN SMALL CLAIMS COURT IRREVOCABLE.) Election by the plaintiff to use the procedures provided for in this Act shall be irrevocable. In the event the plaintiff elects to discontinue the proceedings, the court shall enter its order accordingly, and unless otherwise provided in the order such dismissal shall be deemed to be with prejudice.

SECTION 5. JUDGMENT - APPEAL BY PARTIES.)

1. The court will enter a written judgment indicating its decision on all cases filed with the court on the basis of the evidence presented. A judgment shall be entered even if either party fails to appear at the hearing. If any party is aggrieved by the decision, he may, within ten days from the mailing to him of a notice of entry of judgment against him, appeal from the small claims court to the district court for the county, where the matter shall be heard anew.
2. The appeal in the small claims court is taken by serving the notice of appeal and a copy of the undertaking within five days after filing of the same, on the adverse party or his attorney and by filing the notice of appeal together with the undertaking required by law with the clerk of the district court of the county in which the appeal is taken. All proceedings in the district

court shall be conducted in accordance with the North Dakota rules of civil procedure and the rules of the district courts applicable to civil action. Undertakings under this section shall be in the manner as provided for undertakings in appeals from justice courts.

SECTION 6. JUDGMENT UNSATISFIED - DOCKETING - NO FURTHER APPEAL.) If no appeal has been taken by the defendant, as provided herein, and the defendant fails to pay the judgment rendered by the court within twenty days after notice of entry has been filed, the judge of the court, upon application of the prevailing party, shall certify an abstract of the judgment to the district court, along with an affidavit of identity signed by the judgment creditor. The abstract may be filed with the clerk of the district court of the county in which the judgment was rendered, and the clerk, thereupon, must enter the judgment in the judgment book and upon the judgment docket. From the time of such docketing, it becomes a judgment of such district court for the purpose of execution and a lien upon real property owned by the debtor in the same manner as an original judgment of the district court. A certified transcript of the docket of the judgment may be filed and the judgment docketed accordingly in any other county with the same effect in every respect as if the judgment had been rendered in the district court where such judgment is filed. There shall be no appeal available to either party from the decision of the district court upon appeal from the small claims court or from entry of judgment in the district court pursuant to this section.

SECTION 7. RECORDS AND DESTRUCTION OF RECORDS.) Records of the small claims court shall consist of all documents filed in each action and an index for plaintiffs and defendants. No other books, records, or papers need be kept. After the judgment is satisfied, or becomes ten years old, the court may destroy all papers filed in the case, except the judgment. At the time of destroying such papers, the clerk of court shall make a record upon the margin or elsewhere on the judgment identifying the papers destroyed and the date thereof.

SECTION 8. REFEREES, APPOINTMENT - TERM - METHOD OF QUALIFYING - POWERS AND DUTIES - COMPENSATION.) The board of county commissioners may authorize a judge of a county court of increased jurisdiction to appoint a referee of the small claims court who shall hold office at the pleasure of said judge. Such referee shall qualify in the same manner as other civil officers and his duties and powers in the conduct of trials in the small claims court shall be governed by the provisions of Rule 53 (c) North Dakota Rules of Civil Procedure insofar as such provisions are not in conflict with the provisions of this Act. The referee appointed shall be a person versed in the law. The board of county commissioners shall determine the salary or fee of said referee.

Approved March 27, 1971

CHAPTER 304

SENATE BILL NO. 2320
(Ringsak, Page)

UNIFORM JURY SELECTION
AND SERVICE ACT

AN ACT to provide a method of random selection of jurors, prescribing the qualifications, duties and compensation of jurors, and constituting the Uniform Jury Selection and Service Act; and to repeal chapter 27-09 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT.) The legislature of the state of North Dakota hereby declares that it is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this Act to be considered for jury service in this state and an obligation to serve as jurors when summoned for that purpose.

SECTION 2. DISCRIMINATION PROHIBITED.) A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, or economic status.

SECTION 3. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Court" means the district court of this state, and includes, when the context requires, any judge of the court;
2. "Clerk" and "clerk of court" include any deputy clerk;
3. "Master list" means the list of actual voters for the county which shall be supplemented with names from other sources prescribed pursuant to this Act (section 5) in order to foster the policy and protect the rights secured by this Act (sections 1 and 2).
4. "Lists of actual voters" means the official records of persons actually voting in the most recent general election;

5. "Jury wheel" means any physical device or electronic system for the storage of the names or identifying numbers of prospective jurors;
6. "Master jury wheel" means the jury wheel in which are placed names or identifying numbers of prospective jurors taken from the master list (section 6);
7. "Qualified jury wheel" means the jury wheel in which are placed the names or identifying numbers of prospective jurors whose names are drawn at random from the master jury wheel (section 7) and who are not disqualified (section 8).

SECTION 4. JURY COMMISSION.) A jury commission shall be established in each county to manage the jury selection process under the supervision and control of the court. The jury commission shall be composed of the clerk of court and a jury commissioner appointed for a term of four years by the court. The jury commissioner must be a citizen of the United States and a resident of the county in which he serves. The jury commissioner shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties and shall receive compensation at a per diem rate fixed by the supreme court of this state or as provided by law.

SECTION 5. MASTER LIST.)

1. The jury commission for each county shall compile and maintain a master list consisting of all lists of actual voters for the county supplemented with names from other lists of persons resident therein, such as lists of utility customers, property taxpayers, motor vehicle registrations, and drivers licenses, which the supreme court of this state from time to time designates. The supreme court shall initially designate the other lists within ninety days following the effective date of this Act and exercise the authority to designate from time to time in order to foster the policy of and protect the rights secured by this Act (section 1 and 2). In compiling the master list the jury commission shall avoid duplication of names.
2. Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection 1 by the supreme court as supplementary sources of names, shall make the list available to the jury commission for inspection, reproduction, and copying at all reasonable times.
3. The master list shall be open to the public for examination.

SECTION 6. MASTER JURY WHEEL.)

1. The jury commission for each county shall maintain a master jury wheel, into which the commission shall place the names or identifying numbers of prospective jurors taken from the master list. If the total number of prospective jurors on the master list is one thousand or less, the names or identifying numbers of all of them shall be placed in the master jury wheel. In all other cases, the number of prospective jurors to be placed in the master jury wheel shall be one thousand plus not less than one percent of the total number of names on the master list. From time to time a larger or additional number may be determined by the jury commission or ordered by the court to be placed in the master jury wheel. In December of each even-numbered year the wheel shall be emptied and refilled as prescribed in this Act.
2. Unless all the names on the master list are to be placed in the master jury wheel pursuant to subsection 1, the names or identifying numbers of prospective jurors to be placed in the master jury wheel shall be selected by the jury commission at random from the master list in the following manner: The total number of names on the master list shall be divided by the number of names to be placed in the master jury wheel; the whole number nearest the quotient shall be the "key number", except that the key number shall never be less than two. A "starting number" for making the selection shall then be determined by a random method from the numbers from one to the key number, both inclusive. The required number of names shall then be selected from the master list by taking in order the first name on the master list corresponding to the starting number and then successively the names appearing in the master list at intervals equal to the key number recommencing if necessary at the start of the list until the required number of names has been selected. Upon recommencing at the start of the list, or if additional names are subsequently to be selected for the master jury wheel, names previously selected from the master list shall be disregarded in selecting the additional names. The jury commission may use an electronic or mechanical system or device in carrying out its duties.

SECTION 7. DRAWINGS FROM MASTER JURY WHEEL--JUROR QUALIFICATION FORM.)

1. From time to time and in a manner prescribed by the court, the jury commission publicly shall draw at random from the master jury wheel the names or

identifying numbers of as many prospective jurors as the court by order requires. The clerk shall prepare an alphabetical list of the names drawn. Neither the names drawn nor the list shall be disclosed to any person other than pursuant to this Act or specific order of the court. The clerk shall mail to every prospective juror whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The juror qualification form shall be subject to approval by the court as to matters of form and shall elicit the name, address of residence, and age of the prospective juror and whether he:

- a. is a citizen of the United States and a resident of the county;
- b. is able to read, speak and understand the English language;
- c. has any physical or mental disability impairing his capacity to render satisfactory jury service; and
- d. has lost the right to vote because of imprisonment in the penitentiary or a criminal conviction (section 8).

The juror qualification form shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgment that a willful misrepresentation of a material fact may be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commission within ten days after its second receipt.

2. Any prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commission to appear forthwith before the clerk to fill out the juror qualification form. At the time of his appearance for jury service, or at the time of any interview before the court or

clerk, any prospective juror may be required to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

3. A prospective juror who fails to appear as directed by the commission pursuant to subsection 1 shall be ordered by the court to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the court's order or fails to show good cause for his failure to appear as directed by the jury commission, he is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars or imprisoned in the county jail for not more than three days, or both.
4. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a misdemeanor and upon conviction may be fined not more than five hundred dollars or imprisoned in the county jail for not more than thirty days, or both.

SECTION 8. DISQUALIFICATION FROM JURY SERVICE.)

1. The court, upon request of the jury commission or a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror is disqualified for jury service. The clerk shall enter this determination in the space provided on the juror qualification form and on the alphabetical list of names drawn from the master jury wheel.
2. A prospective juror is disqualified to serve on a jury if he:
 - a. is not a citizen of the United States, twenty-one years old, and a resident of the state and county;
 - b. is unable to read, speak, and understand the English language;
 - c. is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate

as to the disability, and the certifying physician is subject to inquiry by the court at its discretion; or

- d. has lost the right to vote because of imprisonment in the penitentiary (section 12-06-27) or conviction of a criminal offense which by special provision of law disqualifies him for such service.

SECTION 9. QUALIFIED JURY WHEEL--SELECTION AND SUMMONING OF JURY PANELS.)

1. The jury commission shall maintain a qualified jury wheel and shall place therein the names or identifying numbers of all prospective jurors drawn from the master jury wheel who are not disqualified (section 8).
2. A judge of any court or any other state or county official having authority to conduct a trial or hearing with a jury within the county may direct the jury commission to draw and assign to that court or official the number of qualified jurors he deems necessary for one or more jury panels or as required by law for a grand jury. Upon receipt of the direction and in a manner prescribed by the court, the jury commission shall publicly draw at random from the qualified jury wheel the number of qualified jurors specified. The qualified jurors drawn for jury service shall be assigned at random by the clerk to each jury panel in a manner prescribed by the court.
3. If a grand, petit, or other jury is ordered to be drawn, the clerk thereafter shall cause each person drawn for jury service to be served with a summons, either personally or by registered or certified mail, return receipt requested, addressed to him at his usual residence, business, or post office address, requiring him to report for jury service at a specified time and place.
4. If there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the sheriff to summon a sufficient number of petit jurors selected at random by the clerk from the qualified jury wheel in a manner prescribed by the court.
5. The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors shall be made available to the public unless the court determines in any instance that this information in the interest of justice should be kept confidential or its use

limited in whole or in part.

SECTION 10. NO EXEMPTIONS.) No qualified prospective juror is exempt from jury service.

SECTION 11. EXCUSES FROM JURY SERVICE.)

1. The court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused from jury service. The clerk shall enter this determination in the space provided on the juror qualification form.
2. A person who is not disqualified for jury service may be excused from jury service by the court upon a showing of undue hardship, extreme inconvenience, or public necessity, for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction.

SECTION 12. CHALLENGING COMPLIANCE WITH SELECTION PROCEDURES.)

1. Within seven days after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to quash the indictment or information, or for other appropriate relief, on the ground of a substantial failure to comply with this Act in selecting the grand or petit jury.
2. Upon motion filed under subsection 1 containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this Act, the moving party is entitled to present in support of the motion the testimony of the jury commissioner or the clerk, any relevant records and papers not public or otherwise available used by the jury commissioner or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this Act, the court shall stay the proceedings pending the selection of the jury in conformity with this Act, quash an indictment or information, or grant other appropriate relief.
3. The procedures prescribed by this section are the exclusive means by which a person accused of a crime,

the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this Act.

4. The contents of any records or papers used by the jury commissioner or the clerk in connection with the selection process and not made public under this Act shall not be disclosed, except in connection with the preparation or presentation of a motion under subsection 1, until after the master jury wheel has been emptied and refilled and all persons selected to serve as jurors before the master jury wheel was emptied have been discharged. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection 1.

SECTION 13. PRESERVATION OF RECORDS.) All records and papers compiled and maintained by the jury commissioner or the clerk in connection with selection and service of jurors shall be preserved by the clerk for four years after the master jury wheel used in their selection is emptied and refilled (section 6) and for any longer period ordered by the court.

SECTION 14. MILEAGE AND COMPENSATION OF JURORS.) A juror shall be paid mileage at the rate of ten cents per mile for his travel expenses, payable by the county, for each mile actually and necessarily traveled each way. A juror shall be compensated at the rate of twenty dollars for each day of required attendance at sessions of the district or county court, eight dollars for each day of required attendance at sessions of justice court, and eight dollars for each day of required attendance at sessions of a coroner's inquest, all payable by the county.

SECTION 15. LENGTH OF SERVICE BY JURORS.) In any two year period a person shall not be required:

1. To serve or attend court for prospective service as a petit juror more than ten court days, except if necessary to complete service in a particular case;
2. To serve on more than one grand jury; or
3. To serve as both a grand and petit juror.

SECTION 16. PENALTIES FOR FAILURE TO PERFORM JURY SERVICE.) A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. If he fails to show good cause for noncompliance with the summons, he is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars or imprisoned in the county jail for not more than three days, or both.

SECTION 17. PROTECTION OF JURORS' EMPLOYMENT.)

1. An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.
2. Any employer who violates subsection 1 is guilty of criminal contempt and upon conviction may be fined not more than five hundred dollars or imprisoned in the county jail for not more than six months, or both.
3. If an employer discharges an employee in violation of subsection 1 the employee within ninety days may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for six weeks. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

SECTION 18. COURT RULES.) The supreme court of this state may make and amend rules, not inconsistent with this Act, regulating the selection and service of jurors.

SECTION 19. SAVINGS CLAUSE.) If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

SECTION 20. SHORT TITLE.) This Act may be cited as the Uniform Jury Selection and Service Act.

SECTION 21. DISTRICT COURTS AND COUNTY COURTS HAVING INCREASED JURISDICTION MAY USE EACH OTHER'S JURY PANELS.) A judge of the district court or the judge of a county court having increased jurisdiction may, by order, use an undischarged jury panel ordered, drawn, and summoned by the other, at any general, special, or adjourned term of the court for a county mutually served by such courts and for which no jury panel has been ordered.

SECTION 22. WHEN JURY PANEL TO ATTEND SUBSEQUENT TERM.) A judge of the district court may, by order, require an undischarged jury panel summoned to attend a term of the court to attend any subsequent general, special, or adjourned term of the court not exceeding in all one calendar year.

SECTION 23. REPEAL.) Chapter 27-09 of the North Dakota Century Code and the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 17, 1971

CHAPTER 305

SENATE BILL NO. 2249
(Chesrown, Freed, Holand)

JUDICIAL MEMBERSHIP IN
STATE BAR ASSOCIATION

AN ACT to amend and reenact sections 27-11-22 and 27-12-02 of the 1969 Supplement to the North Dakota Century Code, relating to annual licenses to practice law and membership of the state bar association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-11-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. ANNUAL LICENSES TO PRACTICE LAW - REQUIREMENT - ISSUANCE - FEES.) Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law, on or before the first day of January of each calendar year, shall secure an annual license from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee established by the state bar association at its last annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed one hundred dollars and shall be good for one year from and after the first day of January of the year for which it is issued.

SECTION 2. AMENDMENT.) Section 27-12-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-02. MEMBERSHIP OF BAR ASSOCIATION.) The membership of the state bar association of North Dakota shall consist of all attorneys who have paid their annual license fees to and have received their licenses from the secretary-treasurer of the state bar board, as provided by law and all attorneys holding an unrevoked certificate of admission to the bar of this state who are prohibited from practicing law in this state by virtue of holding judicial office and have paid an annual membership fee to the state bar association in an amount equal to the state bar association's share of the annual license fee to practice law.

Approved March 17, 1971

CHAPTER 306

HOUSE BILL NO. 1399
(Atkinson)

DUTIES AND COMPENSATION
OF JUVENILE SUPERVISORS

AN ACT to amend and reenact subsections 1, 4, and 10 of section 27-20-02 of the North Dakota Century Code, relating to the definition of terms used in the Uniform Juvenile Court Act; to amend and reenact subsection 2 of section 27-20-05 of the North Dakota Century Code, relating to the compensation of juvenile supervisors; to amend and reenact subsection 1 of section 27-20-06 of the North Dakota Century Code, relating to the powers and duties of juvenile supervisors; to amend and reenact subsections 1, 2, and 4 of section 27-20-16 of the North Dakota Century Code, relating to the place of detention of a child; and to amend and reenact subsection 2 of section 27-20-17 of the North Dakota Century Code, relating to the release of a child from detention.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1, 4, and 10 of section 27-20-02 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Child" means an individual who is:
 - a. Under the age of eighteen years, and not married or not a member of the armed services;
 - b. Under the age of twenty-one years who committed an act of delinquency while a child.
- * 4. "Unruly child" means a child who:
 - a. Is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or who is willfully in a situation dangerous or injurious to the health, safety, or morals of himself or others; or

*NOTE: Subsection 4 of section 27-20-02 was also amended by section 1 of House Bill No. 1260, chapter 307.

- c. Has committed an offense applicable only to a child; and
 - d. In any of the foregoing is in need of treatment or rehabilitation.
10. "Minor traffic offense" means a violation of a law or local ordinance or resolution governing the operation of a vehicle upon the highways of this state, or the waterways within or adjoining this state, other than negligent homicide, manslaughter, driving or being in control of a vehicle upon a highway while under the influence of intoxicating liquor, a narcotic or a drug, driving with an open receptacle containing an intoxicating beverage in the motor vehicle, and aggravated reckless driving.

SECTION 2. AMENDMENT.) Subsection 2 of section 27-20-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Each juvenile supervisor shall receive as full compensation for his services such amount as may be fixed from time to time by the judge who appointed him, or by his successor, either upon a per diem basis not exceeding ten dollars per day for the time actually and necessarily employed in the discharge of his duties, or upon a salary basis not exceeding thirteen thousand dollars per annum. In addition, the juvenile supervisor shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

SECTION 3. AMENDMENT.) Subsection 1 of section 27-20-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a juvenile supervisor shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine complaints and charges of delinquency, unruly conduct, or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter.
 - c. Supervise and assist a child placed on probation or in his protection, supervision, or care by

order of the court or other authority of law.

- d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
- e. Take into custody and detain a child who is under his supervision or care as a delinquent, unruly, or deprived child if he has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter. Except as provided by this chapter, a juvenile supervisor does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this chapter against a child who is or may be under his care or supervision.
- f. Administer oaths.
- g. Take acknowledgments of instruments for the purpose of this chapter.
- h. Make such temporary order not to exceed thirty days for the custody and control of a deprived child as he may deem appropriate.
- i. Perform all other functions designated by this chapter or by order of the court pursuant thereto, including, if qualified, those of a referee. Juvenile supervisors who are serving as juvenile commissioners on the effective date of this chapter may perform the functions of a referee under this chapter without being members of the bar.

SECTION 4. AMENDMENT.) Subsections 1, 2, and 4 of section 27-20-16 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. A child alleged to be delinquent or unruly may be detained only in:
 - a. A licensed foster home or a home approved by the court;
 - b. A facility operated by a licensed child welfare agency;
 - c. A detention home or center for delinquent or unruly children which is under the direction

- or supervision of the court or other public authority or of a private agency approved by the court; or
- d. Any other suitable place or facility, designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.
2. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be a child is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.
 4. A child alleged to be deprived may be placed in shelter care only in the facilities stated in subdivisions a, b, and d of subsection 1 and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent or unruly.

SECTION 5. AMENDMENT.) Subsection 2 of section 27-20-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If he is not so released, a petition under section 27-20-21 shall be promptly made and presented to the court. An informal detention hearing shall be held promptly and not later than ninety-six hours after he is placed in detention to determine whether his detention or shelter care is required under section 27-20-14. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency or unruly conduct.

Approved March 27, 1971

CHAPTER 307

HOUSE BILL NO. 1260
(Eagles, A. Hausauer)

DEFINITION OF "UNRULY CHILD"

AN ACT to amend and reenact subsection 4 of section 27-20-02 of the North Dakota Century Code, relating to the definition of an unruly child.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 27-20-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 4. "Unruly child" means a child who:
- a. Is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or
 - c. Has committed an offense applicable only to a child; and
 - d. In any of the foregoing is in need of treatment or rehabilitation.

*NOTE: Subsection 4 of section 27-20-02 was also amended by section 1 of House Bill No. 1399, chapter 306.

Approved March 27, 1971