

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 254

HOUSE BILL NO. 1523
(Mertens, Berg)

WAIVER OF CIVIL ACTION FILING FEES

AN ACT to create and enact a new section to chapter 27-01 of the North Dakota Century Code, relating to the waiver of filing fees in civil actions.

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

SECTION 1.) A new section to chapter 27-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

CIVIL ACTION FEES - WAIVER.) Any filing fees connected with any civil action to be heard in any of the courts of the judicial system as listed in section 27-01-01 may be waived with or without a hearing, at the court's discretion, by the filing of an in forma pauperis petition accompanied by a sworn affidavit of the petitioner relating the pertinent information regarding indigency.

Approved April 6, 1977

CHAPTER 255

SENATE BILL NO. 2307

(Freed, Hoffner, Lashkowitz, Lips, Wenstrom)

JUDICIAL SALARIES

AN ACT to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to salaries of the judges of the supreme and district courts.

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

SECTION 1. AMENDMENT.) Section 27-02-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-02. SALARIES OF JUDGES OF SUPREME COURT.) Each judge of the supreme court shall receive an annual salary of thirty-six thousand eight hundred dollars except that the chief justice of the supreme court shall receive an additional one thousand five hundred dollars per annum.

SECTION 2. AMENDMENT.) Section 27-05-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-03. SALARIES AND EXPENSES OF DISTRICT JUDGES.) Each district judge of this state shall receive an annual salary of thirty-four thousand five hundred dollars and his actual travel expenses, which shall include mileage and subsistence while engaged in the discharge of his official duties outside the county in which his chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law.

Each district judge who has been appointed by the supreme court to act as presiding judge of a judicial district shall receive an additional one thousand two hundred dollars per annum.

Approved April 19, 1977

CHAPTER 256

HOUSE BILL NO. 1056
(Legislative Council)
(Interim Committee on Judiciary "B")

STATE JUVENILE SERVICES COORDINATOR

AN ACT to create and enact a new section of the North Dakota Century Code, relating to the establishment of an office of state juvenile services coordinator.

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

SECTION 1.) A new section of the North Dakota Century Code is hereby created and enacted to read as follows:

STATE JUVENILE SERVICES COORDINATOR - POWERS AND DUTIES - SELECTION AND SALARY - ADMINISTRATIVE SUPPORT.) The position of state juvenile services coordinator is hereby created and established within the office of the North Dakota supreme court administrator. The coordinator shall be selected by the supreme court and must have a background of experience in the juvenile justice system. The coordinator's salary shall be determined by the supreme court. For administrative, budgetary, and organizational purposes the coordinator position shall be considered a part of the supreme court administrator's office, and that office shall provide whatever administrative support is required by the coordinator. The coordinator shall work to establish uniform practices and procedures within the state's juvenile justice system; shall conduct research and planning on methods to improve the juvenile justice system; shall prepare and conduct training programs for juvenile justice personnel; shall work to improve communications and contacts among juvenile justice personnel; shall prepare, after consultation with juvenile justice personnel and juvenile judges, standards for various juvenile justice personnel such as referees, supervisors, and probation officers, which could be adopted by the judicial council and the supreme court; and shall perform such other duties and projects as may be directed by the judicial council or the supreme court to improve the state's juvenile justice system. The juvenile services coordinator shall make recommendations to the legislative assembly concerning any legislative action he deems necessary or desirable.

Approved April 9, 1977

CHAPTER 257

SENATE BILL NO. 2206
(Nething, Freed, Schirado)

SUPREME COURT DECISIONS

AN ACT to amend and reenact section 27-02-23 of the North Dakota Century Code, relating to decisions and opinions of the North Dakota supreme court, and to repeal section 27-03-09 of the North Dakota Century Code, relating to the filing of syllabus and furnishing same to publishers of daily newspapers.

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

SECTION 1. AMENDMENT.) Section 27-02-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-23. DECISIONS MUST BE WRITTEN - FILING - REQUIREMENT.) The supreme court, in any case decided by it, shall give its decision in writing, which shall be filed with the clerk of said court with the other papers in the case. A decision in a case heard at a general or special term, and all orders affecting the same, may be filed in vacation, and judgment entered thereon in pursuance of the finding and order of the court with the same effect as upon a decision made and filed in term.

SECTION 2. REPEAL.) Section 27-03-09 of the North Dakota Century Code is hereby repealed.

Approved March 23, 1977

CHAPTER 258

HOUSE BILL NO. 1251
(Richie, Gronneberg, Conmy, Dotzenrod)

COMPENSATION OF DISTRICT COURT REPORTERS

AN ACT to amend and reenact section 27-06-02 of the North Dakota Century Code, relating to salary and expenses of court reporter.

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

SECTION 1. AMENDMENT.) Section 27-06-02 of the 1975 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 nineteen 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 March 19, 1977

CHAPTER 259

HOUSE BILL NO. 1455
(Richie, Gronneberg, Conmy, Dotzenrod)

FEES FOR TRANSCRIPTS

AN ACT to amend and reenact section 27-06-08 of the North Dakota Century Code, relating to fees for transcripts.

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

SECTION 1. AMENDMENT.) Section 27-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-08. FEES FOR TRANSCRIPTS.) For the preparation of a transcript, a court reporter shall be entitled to receive compensation at the rate of one dollar ten cents per page for the original, thirty-five cents per page for the first copy, and fifteen cents per page for each additional copy. A page shall consist of not less than twenty-five lines written on paper at least eight and one-half inches by eleven inches in size, prepared for binding on the left side, with margins of not more than one and three-fourths inch on the left nor three-eighths inch on the right. Type shall be standard pica with ten letters to the inch. Questions and answers shall each begin a new line. Indentations for speakers or paragraphs shall not be more than ten spaces from the left margin. Pages shall be numbered consecutively. Transcripts shall be indexed as to witnesses and exhibits. Such compensation shall be paid by the party requesting the transcript or by the county chargeable with the costs of the action, when the transcript is ordered prepared, by the judge, at such county's expense.

Approved April 9, 1977

CHAPTER 260

SENATE BILL NO. 2071
(Nothing)

COMPENSATION OF DISTRICT COURT BAILIFFS

AN ACT to amend and reenact section 27-06-09 of the North Dakota Century Code, relating to compensation of bailiffs; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 27-06-09 of 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 paid by the county for their services an amount which shall equal the compensation and mileage which is provided for jurors for required attendance at sessions of the district or county court under the provisions of section 27-09.1-14.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 31, 1977

CHAPTER 261

SENATE BILL NO. 2364
(Christensen, Miller)

SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION

AN ACT to amend and reenact section 27-08-08 of the 1975 Supplement to the North Dakota Century Code, relating to 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 1975 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: twenty-one thousand dollars in counties having a population not exceeding ten thousand inhabitants; twenty-one thousand five hundred dollars in counties having a population exceeding ten thousand inhabitants but not exceeding eighteen thousand inhabitants; twenty-two thousand eight hundred dollars in counties having a population exceeding eighteen thousand inhabitants but not exceeding forty thousand inhabitants; and twenty-seven thousand six hundred dollars in counties having a population exceeding forty 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 April 20, 1977

CHAPTER 262

HOUSE BILL NO. 1265
(Stenehjem, Unhjem)

JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION TO BE LEARNED IN THE LAW

AN ACT to create and enact a new section to chapter 27-08 of the North Dakota Century Code, requiring judges of county courts having increased jurisdiction to be learned in the law; and declaring an emergency.

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

SECTION 1.) A new section to chapter 27-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

JUDGES TO BE LEARNED IN THE LAW.) Judges of county courts of increased jurisdiction shall be learned in the law.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 11, 1977

CHAPTER 263

SENATE BILL NO. 2530
(Schirado)

CHANGE OF JUDGE IN PRELIMINARY EXAMINATION

AN ACT to amend and reenact section 27-08-34 of the North Dakota Century Code, relating to change of judge in preliminary examinations held in county court with increased jurisdiction.

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

SECTION 1. AMENDMENT.) Section 27-08-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-34. CHANGE OF JUDGE IN PRELIMINARY EXAMINATIONS HELD BEFORE JUDGE OF COUNTY COURT OF INCREASED JURISDICTION.) If the state or a defendant, in a criminal action in which a defendant is brought before a judge of a county court of increased jurisdiction for a preliminary examination, at any time before such examination is commenced, files with said judge an affidavit stating that by reason of the bias or prejudice of said judge a fair and impartial examination before him cannot be had, such judge shall proceed no further in said action, but shall forthwith certify all proceedings in such action to the district court of the county for such examination or shall request, arrange for, and procure the county judge of some other county court having increased jurisdiction to preside at the examination in the county in which the action is pending. The actual expenses of such judge while traveling to and from the county to which he has been called and during the examination of such action shall be paid by the county in which the action is pending. If the parties to such action agree upon the judge who shall preside over such preliminary examination, and such judge agrees, it shall be so ordered, but if the parties do not agree upon such judge, the same shall be sent to the nearest judge of the county court of increased jurisdiction. The judge presiding over such preliminary examination may be changed under the provisions of this section only once by each party.

Approved March 23, 1977

CHAPTER 264

HOUSE BILL NO. 1224
(Committee on Judiciary)
(At the request of the Attorney General)

CHANGE OF JUDGE IN CRIMINAL ACTION

AN ACT to amend and reenact section 27-08-38 of the North Dakota Century Code, relating to a change of judge for trial of a criminal action in county court with increased jurisdiction.

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

SECTION 1. AMENDMENT.) Section 27-08-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-38. CHANGE OF JUDGE FOR TRIAL OF CRIMINAL ACTION IN COUNTY COURT HAVING INCREASED JURISDICTION.) If the state or a defendant in a criminal action in a county court having increased jurisdiction, before the opening of a term of such court at which such action is to be tried, or if a trial thereof has been had without a verdict, at the term at which said trial was had and before another trial of the action is begun, shall file with the clerk of the court in which the action or proceeding is pending a written demand for change of judge, such judge shall proceed no further in such action, but, forthwith, shall certify all proceedings in such action to the district court of the county for trial or shall request, arrange for, and procure the county judge of some other county court having increased jurisdiction to preside at the trial thereof in the county in which the action is pending. The actual expenses of such judge while traveling to and from the county to which he has been called and during the trial of such action shall be paid by the county in which the action is pending. Not more than one such change each shall be granted to the state or the defendant. The procedures set out in subsections 1 through 3 of section 29-15-21 with regard to change of judge in district court shall apply to this section.

Approved March 19, 1977

CHAPTER 265

HOUSE BILL NO. 1189
(Marsden)

SMALL CLAIMS COURT JURISDICTIONAL LIMITS

AN ACT to amend and reenact sections 27-08.1-01 and 27-08.1-03 of the North Dakota Century Code, relating to the jurisdictional limits of the small claims court and the answer and counterclaim.

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

SECTION 1. AMENDMENT.) Section 27-08.1-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-01. 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 chapter, 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 five hundred dollars where the action is commenced in the offices of a county justice and one thousand dollars where the action is commenced in a county court with increased jurisdiction. 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. AMENDMENT.) Section 27-08.1-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-03. INFORMAL HEARING - ANSWER AND COUNTERCLAIM - 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 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 five hundred dollars where the action was commenced in the office of the county justice, and one thousand dollars where the action was commenced in an office of the county court with increased jurisdiction, 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 five hundred dollars in county justice court, and one thousand dollars in county court with increased jurisdiction. 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 not be allowed in small claims court. A fee of two dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served.

Approved March 11, 1977

CHAPTER 266

HOUSE BILL NO. 1520
(Stenehjem)

MILEAGE AND COMPENSATION OF JURORS

AN ACT to amend and reenact section 27-09.1-14 of the North Dakota Century Code, relating to juror compensation and mileage, and providing for an increase from twenty to twenty-five dollars per day compensation for district and county court jurors and an increase from eight to ten dollars per day for justice court and coroner's inquest jurors.

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

SECTION 1. AMENDMENT.) Section 27-09.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09.1-14. MILEAGE AND COMPENSATION OF JURORS.) A juror shall be paid mileage at the rate of fifteen 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-five dollars for each day of required attendance at sessions of the district or county court, ten dollars for each day of required attendance at sessions of justice court, and ten dollars for each day of required attendance at sessions of a coroner's inquest, all payable by the county.

Approved April 6, 1977

CHAPTER 267

SENATE BILL NO. 2529
(Freed)

CERTAIN JUDGES TO BE LICENSED BY
BAR BOARD

AN ACT to amend and reenact sections 27-11-01, 27-11-22, and 27-12-02 of the North Dakota Century Code, relating to prohibition of practicing law or serving on certain courts without certificate of admission and payment of annual license fee and providing a penalty, relating to the requirement for an annual license to practice law or serve on certain courts, issuance thereof, fees therefore and membership in the state bar association of North Dakota of all attorneys and persons serving on certain courts.

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

SECTION 1. AMENDMENT.) Section 27-11-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-01. PRACTICING LAW AND SERVING ON COURTS WITHOUT CERTIFICATE OF ADMISSION AND WITHOUT PAYMENT OF ANNUAL LICENSE FEE PROHIBITED - PENALTY.) No person, except as otherwise provided in section 27-11-27, shall practice law, act as an attorney or counselor at law in this state, or commence, conduct, or defend in any court of record of this state, any action or proceeding in which he is not a party concerned, nor be qualified to serve on the supreme court or district court unless he has:

1. Secured from the supreme court a certificate of admission to the bar of this state; and
2. Secured an annual license therefor from the state bar board.

Any person violating any of the provisions of this section is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT.) Section 27-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. ANNUAL LICENSES TO PRACTICE LAW AND TO SERVE ON CERTAIN COURTS - 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, or who is to serve as a duly qualified justice of the supreme court or judge of a district court 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 fifty 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 3. AMENDMENT.) Section 27-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-02. MEMBERSHIP OF STATE BAR ASSOCIATION.) The membership of the state bar association of North Dakota shall consist of all persons 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.

Approved March 31, 1977

CHAPTER 268

HOUSE BILL NO. 1255
(Conmy)

BAR ADMISSION FEE

AN ACT to amend and reenact section 27-11-17 of the North Dakota Century Code, relating to fees for admission to the bar upon examination, and for admission to the bar upon motion.

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

SECTION 1. AMENDMENT.) Section 27-11-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-17. FEE PAYABLE BY ALL APPLICANTS FOR ADMISSION TO BAR - DISPOSITION OF FEES.) The state bar board shall receive a fee to be determined from time to time by the state bar board with the approval of the supreme court of an amount not to exceed fifty dollars from each applicant for admission to the bar of this state who submits to examination by the state bar board and shall receive a fee to be determined from time to time by the state bar board with the approval of the supreme court of an amount not to exceed one hundred fifty dollars from each applicant for admission to the bar of this state who seeks admission upon motion in accordance with the provisions of sections 27-11-25 and 27-11-26. All such fees received shall be deposited and disbursed in accordance with section 54-44-12.

Approved March 31, 1977

CHAPTER 269

HOUSE BILL NO. 1266
(Stenehjem, Unhjem)

REPEAL OF JUDICIAL COUNCIL STATISTICAL
REPORTS

AN ACT to repeal section 27-15-07 of the North Dakota Century Code, relating to the duties of the judicial council to gather information relating to crime and criminal and civil litigation and to the preparation of a semiannual report of district court case activity.

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

SECTION 1. REPEAL.) Section 27-15-07 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1977

CHAPTER 270

HOUSE BILL NO. 1527
(Richie)

JUVENILE COURT JURISDICTION

AN ACT to amend and reenact subsections 2 and 10 of section 27-20-02 of the North Dakota Century Code, relating to the jurisdiction of the juvenile court over certain traffic offenses.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 27-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law, and the crime does not fall under paragraph c of subsection 4 and is not a traffic offense as defined in subsection 10.

SECTION 2. AMENDMENT.) Subsection 10 of section 27-20-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. "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, by a child who has been issued a valid operator's license or permit if one is required, other than negligent homicide in violation of section 12.1-16-03 and manslaughter resulting from the operation of a motor vehicle.

Approved March 23, 1977

CHAPTER 271

HOUSE BILL NO. 1257
(Conmy, Eagles)

COMPENSATION OF JUVENILE SUPERVISORS

AN ACT to amend and reenact subsection 2 of section 27-20-05 of the North Dakota Century Code, relating to the salary of juvenile supervisors.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 27-20-05 of the 1975 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 a salary as may be fixed from time to time by the judge who appointed him, or by his successor. Such salary shall not exceed twenty-one thousand dollars per annum. In addition, the juvenile supervisor shall be paid reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

Approved March 23, 1977

CHAPTER 272

HOUSE BILL NO. 1514
(Solberg, Richard)

MILL LEVY AUTHORIZED FOR JUVENILE
SUPERVISOR

AN ACT to create and enact a new section to chapter 27-20 of the North Dakota Century Code, relating to additional juvenile supervisors and providing for a mill levy for county juvenile supervisors.

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

SECTION 1.) A new section to chapter 27-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

COUNTY JUVENILE SUPERVISORS - AUTHORIZATION FOR MILL LEVY.)
Upon the request of the board of county commissioners, a juvenile supervisor shall be appointed for the county who shall serve at the pleasure of the judge. The juvenile supervisor shall be chosen from a list of at least three candidates submitted by the board of county commissioners. The board shall provide an office and clerical staff for the juvenile supervisor and shall pay his salary to be set by the judge pursuant to subsection 2 of section 27-20-05, together with reasonable travel expenses in the manner and subject to the limitations applicable to juvenile supervisors.

The board of county commissioners, when authorized to do so by sixty percent of the electors voting on the question in a regular or special election, shall levy an annual tax of not more than five mills to carry out the provisions of this section. Such levy shall be in addition to and not restricted by any mill levy limitations prescribed by law.

Approved March 31, 1977

CHAPTER 273

HOUSE BILL NO. 1052
(Legislative Council)
(Interim Committee on Judiciary "B")

SUPERVISION OF JUVENILE UNDER INFORMAL ADJUSTMENT

AN ACT to amend and reenact subsection 2 of section 27-20-10 of the North Dakota Century Code, relating to the period of supervision allowed under informal adjustment for a juvenile.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 27-20-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond nine months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter.

Approved April 19, 1977

CHAPTER 274

HOUSE BILL NO. 1054
(Legislative Council)
(Interim Committee on Judiciary "B")

JUVENILE COURT HEARINGS

AN ACT to amend and reenact subsection 1 of section 27-20-22 and section 27-20-24 of the North Dakota Century Code, relating to the time for a hearing and the right of dismissal of a petition against a juvenile.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 27-20-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. After the petition has been filed, the court shall fix a time for hearing thereon, which shall not be later than thirty days after the filing of the petition. If the child is in detention, the time for the hearing shall not be later than ten days after the filing of the petition. The court may extend the time for hearing for good cause shown. The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is fourteen or more years of age or is alleged to be a delinquent or unruly child. A copy of the petition shall accompany the summons unless the summons is served by publication in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition can be obtained.

SECTION 2. AMENDMENT.) Section 27-20-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-24. CONDUCT OF HEARINGS.)

1. Hearings under this chapter shall be conducted by the court without a jury, in an informal but orderly manner, and separately from other proceedings not included in section 27-20-03.

2. If the hearing has not been held within the time limit, or any extension thereof, required by subsection 1 of section 27-20-22, the petition shall be dismissed.
3. The state's attorney upon request of the court shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
4. The proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
5. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, and other persons accompanying a party for his assistance, and any other persons as the court finds have a proper interest in the proceedings or in the work of the court may be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency or unruly conduct are being heard.

Approved March 5, 1977

CHAPTER 275

SENATE BILL NO. 2053
(Legislative Council)
(Interim Committee on Judiciary "B")

JUVENILE COURT COMMITMENT AUTHORITY

AN ACT to amend and reenact section 27-20-35 of the North Dakota Century Code, relating to the juvenile court's authority to commit children for mental health treatment.

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

SECTION 1. AMENDMENT.) Section 27-20-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-35. DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED CHILD.)

1. If, at a dispositional hearing of a child found to be a delinquent or unruly child or at a hearing to transfer a child to another court under section 27-20-34, the evidence indicates that the child may be suffering from mental retardation or mental illness, the court before making a disposition shall commit the child for a period not exceeding sixty days to an appropriate institution, agency, or individual for study and report on the child's mental condition.
2. If it appears from the study and report that the child is committable under the laws of this state as a mentally retarded or mentally ill child, the court shall order the child detained and direct that within ten days after the order the court resume proceedings in the juvenile court for the child's commitment to an appropriate institution or agency.
3. If it does not so appear or the child is found not to be committable, the court shall proceed to the disposition or transfer of the child as otherwise provided by this chapter.

Approved March 17, 1977

CHAPTER 276

HOUSE BILL NO. 1057
(Legislative Council)
(Interim Committee on Judiciary "B")

EMERGENCY MEDICAL TREATMENT OF WARDS

AN ACT to amend and reenact section 27-20-38 of the North Dakota Century Code, relating to emergency medical treatment for juveniles under the supervision of a legal custodian.

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

SECTION 1. AMENDMENT.) Section 27-20-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-38. RIGHTS AND DUTIES OF LEGAL CUSTODIAN.) A custodian to whom legal custody has been given by the court under this chapter has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment. The custodian also has the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

Approved March 11, 1977

CHAPTER 277

SENATE BILL NO. 2052
(Legislative Council)
(Interim Committee on Judiciary "B")

JUVENILE COURT RECORDS

AN ACT to create and enact section 27-20-54.1 of the North Dakota Century Code, relating to the destruction of juvenile court records; and to amend and reenact section 27-20-54 of the North Dakota Century Code, relating to the sealing of juvenile court records.

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

SECTION 1. AMENDMENT.) Section 27-20-54 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-54. SEALING OF JUVENILE RECORDS AND FILES - WITH AND WITHOUT HEARINGS - FINDINGS NECESSARY - NOTICE - REOPENING RECORDS.)

1. The court shall, upon its own motion, order the sealing of the files and records of all children that were subjects of proceedings under sections 27-20-30, 27-20-31, and 27-20-32, including records kept pursuant to sections 27-20-52, 27-20-53, and 12-46-15, when the court finds any of the following:
 - a. That the child is twenty-one years of age.
 - b. That two years have passed since the final disposition or discharge of the child.
 - c. That the petition against the child has been dismissed for lack of jurisdiction or failure of proof.
2. On application of a person who has been adjudicated deprived, delinquent, or unruly, and after a hearing, the court may order the sealing of files and records in the proceedings, including those specified in sections 27-20-52 and 27-20-53, if the court finds any of the following:
 - a. Since the final discharge the applicant has not been convicted of a felony, or of a misdemeanor involving

- moral turpitude, or adjudicated a delinquent or unruly child, and no proceeding is pending seeking conviction or adjudication;
- b. The applicant has been rehabilitated or there is a convincing likelihood of no future offenses;
 - c. Supervision of a deprived child is no longer necessary or that the child has been adopted;
 - d. The findings or order of disposition have been reversed on appeal; or
 - e. The existence of the record is not in the best interest of the child.
3. On application of a child or his parent or guardian, and after a hearing, the court may order the sealing of files and records kept by law enforcement agencies or by any representative of the state or a state agency, if the court finds any of the following:
- a. The child was not referred to the juvenile court;
 - b. The child was subject to informal law enforcement disposition;
 - c. The child was released to his parents; or
 - d. There is a convincing likelihood of no future offenses and the existence of the records is not in the best interest of the child.
4. For purposes of this section records are defined as all documents relating to the apprehension, detention, adjudication, or disposition of a child.
5. Reasonable notice of the hearing shall be given to:
- a. The state's attorney of the county;
 - b. The authority granting the discharge if the final discharge was from an institution or from parole; and
 - c. The law enforcement agencies or any representative of the state or state agency having custody of the files and records specified in sections 27-20-52, 27-20-53, and 12-46-15, and which are included in the application or motion.
6. Upon entry of the order, the proceeding shall be treated as if it never occurred. All index references shall be

deleted, and upon inquiry in any matter the person, the court, law enforcement officers, and representatives of state agencies shall properly reply that no record exists with respect to the person. Copies of the order shall be sent to each agency or official therein named. Inspection of the sealed files and records thereafter may be permitted by court order upon petition by the subject of the records and only by those persons named in the order.

SECTION 2.) Section 27-20-54.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-20-54.1. DESTRUCTION OF JUVENILE RECORDS AND FILES - CERTAIN TYPES OF RECORDS EXCEPTED.)

1. Two years from the date a juvenile record or file has been sealed the court shall upon its own motion order all records, papers, and exhibits concerning the child destroyed. The order shall include files and records subject to sealing under section 27-20-54.
2. The juvenile court may keep records for the purposes of administration, planning, research, and statistical information provided all names have been expunged from those records.

Approved March 12, 1977

CHAPTER 278

HOUSE BILL NO. 1298
(Wentz)

AUTHORITY OF COMMISSION ON JUDICIAL QUALIFICATIONS

AN ACT to amend and reenact subsection 7 of section 27-23-03 of the North Dakota Century Code, and to amend and reenact section 27-23-12 of the North Dakota Century Code, relating to the power, authority, and responsibility of the commission on judicial qualifications and providing for administrative services by the administrator of the supreme court to such commission.

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

SECTION 1. AMENDMENT.) Subsection 7 of section 27-23-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The commission may employ or share the employment of such officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred upon the commission and upon the masters; may arrange for and compensate medical and other experts and reporters; may arrange for attendance of witnesses, including witnesses not subject to subpoena; and may pay from funds available to it all expenses reasonably necessary for effectuating the purposes of this chapter, whether or not specifically enumerated herein. The attorney general shall, if requested by the commission, act as its counsel generally or in any particular investigation or proceeding. The commission may employ special counsel from time to time whenever it deems necessary.

SECTION 2. AMENDMENT.) Section 27-23-12 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-23-12. COMMISSION BUDGET.) The commission shall be responsible for preparing and presenting to the legislature a proposed biennial budget for the commission, and shall be responsible and accountable for the expenditure of any funds appropriated. The supreme court administrator shall assist in the financial transactions of the commission by providing administrative bookkeeping services and similar related activities but shall have no authority to expend any funds without specific approval of the commission.

Approved March 31, 1977