# CHAPTER 27-20.3
# CHILD WELFARE

**27-20.3-01. Definitions. (Effective through July 31, 2027)**

As used in this chapter:

1. "Abandon" means:
   a. As to a parent of a child not in the custody of that parent, failure by the noncustodial parent significantly without justifiable cause:
      (1) To communicate with the child; or
      (2) To provide for the care and support of the child as required by law; or
   b. As to a parent of a child in that parent's custody:
      (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
      (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
      (3) Willfully to fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
2. "Abandoned infant" means a child who has been abandoned before reaching the age of one year.
3. "Aggravated circumstances" means circumstances in which a parent:
   a. Abandons, tortures, chronically abuses, or sexually abuses a child;
   b. Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for one year;
   c. Engages in conduct prohibited under sections 12.1-20-01 through 12.1-20-08 or chapter 12.1-27.2, in which a child is the victim or intended victim;
   d. Engages in conduct that constitutes one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
      (1) A violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, or 14-09-22 in which the victim is another child of the parent;
      (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
      (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury;
   e. Engages or attempts to engage in conduct, prohibited under sections 12.1-17-01 through 12.1-17-04, in which a child is the victim or intended victim;
   f. In the case of a child age nine or older, has been incarcerated under a sentence for which the latest release date is after the child's age of majority;
   g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or
   h. Allows the child to be present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.
4. "Certified shelter care" means a nonsecure permanent dwelling operated by an agency certified by the department of health and human services, where employees offer safe shelter, food, and a structured routine, and which is available twenty-four hours a day to a resident in need of emergency placement, not to exceed seven days, unless otherwise approved by the department.
5. "Child in need of protection" means a child who:
   a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or

emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;

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

c. Has been abandoned by the child's parents, guardian, or other custodian;

d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;

e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;

f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;

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

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

i. Is in need of care and treatment and:

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

(2) Has committed an act of a violent or sexual nature against another family member living in the household, which if committed by an adult would be considered a crime under the laws of this state, and if the criteria under section 27-20.4-11 are met, has at minimum been considered for informal adjustment; and

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

6. "Child in need of services" means a child who:

a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;

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

c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or

d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and

e. In any of the foregoing instances is in need of treatment or rehabilitation.

7. "Custodian" means a person, other than a parent or legal guardian, which stands in loco parentis to the child and a person to which legal custody of the child has been given by order of a court.

8. "Diversion" means an intervention strategy that redirects a child away from formal processing in the juvenile justice system, while still holding the child accountable for that child's actions.

9. "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified

individual under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.

10. "Home" as used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
11. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of health and human services.
12. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes the following:
    a. Whether and, if applicable, when the child will be returned to the parent.
    b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights.
    c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian.
    d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings.
    e. Whether and, if applicable, in the case of siblings removed from the home of the siblings who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings.
    f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:
        (1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement;
        (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child; and
        (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.
    g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests.
    h. In the case of a child who has attained age fourteen, the services needed to assist the child to make the transition to successful adulthood.
13. "Qualified residential treatment programs" mean residential child care facilities that provide a higher level of care which must use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff to meet the treatment needs of children in out-of-home placement.
14. "Referral" means a written report submitted to the director of the human service zone concerning a child in need of services as authorized in this chapter.
15. "Relative" or "kinship relative" means:
    a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
    b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
    c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or

d. The child's stepparent.

16. "Shelter care" means temporary care during which a child needs a safe bed outside of the home, in a shelter care site or a certified shelter care site managed by an agency or licensed foster care facility.

**Definitions. (Effective after July 31, 2027)**

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1. "Abandon" means:
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      (1) To communicate with the child; or
      (2) To provide for the care and support of the child as required by law; or
   b. As to a parent of a child in that parent's custody:
      (1) To leave the child for an indefinite period without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
      (2) Following the child's birth or treatment at a hospital, to fail to arrange for the child's discharge within ten days after the child no longer requires hospital care; or
      (3) Willfully to fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
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3. "Aggravated circumstances" means circumstances in which a parent:
   a. Abandons, tortures, chronically abuses, or sexually abuses a child;
   b. Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for one year;
   c. Engages in conduct prohibited under sections 12.1-20-01 through 12.1-20-08 or chapter 12.1-27.2, in which a child is the victim or intended victim;
   d. Engages in conduct that constitutes one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
      (1) A violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, or 14-09-22 in which the victim is another child of the parent;
      (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
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   g. Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or
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5. "Child in need of protection" means a child who:

a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for services or protection is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
b. Has been placed for care or adoption in violation of law;
c. Has been abandoned by the child's parents, guardian, or other custodian;
d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;
f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner;
g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
h. Is a victim of human trafficking as defined in title 12.1.

6. "Child in need of services" means a child who:
   a. Is habitually and without justification truant from school subject to compulsory school attendance and is absent from school without an authorized excuse more than three days during a school year;
   b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian, including running away, and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
   c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution; or
   d. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03; and
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8. "Diversion" means an intervention strategy that redirects a child away from formal processing in the juvenile justice system, while still holding the child accountable for that child's actions.
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    c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian.
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    g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests.
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14. "Referral" means a written report submitted to the director of the human service zone concerning a child in need of services as authorized in this chapter.
15. "Relative" or "kinship relative" means:
    a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
    b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
    c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
    d. The child's stepparent.
16. "Shelter care" means temporary care during which a child needs a safe bed outside of the home, in a shelter care site or a certified shelter care site managed by an agency or licensed foster care facility.

**27-20.3-02. Jurisdiction.**

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

**27-20.3-03. Venue.**

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

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

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 director shall:
   a. Make a determination upon intake of referrals regarding the appropriate manner to handle a child in need of protection under this chapter.
   b. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
   c. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a child in need of protection. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
   d. Take acknowledgments of instruments for the purpose of this chapter.
   e. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be in need of protection as may be deemed appropriate. The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.
   f. Perform all other functions designated by this chapter or under section 27-05-30 or by order of the court, including, if qualified, those of a referee.
   g. Issue an order to a law enforcement authority to transport a child to and from a specified location.
   h. Receive and examine requests for review of a child's placement at a qualified residential treatment program under the Family First Prevention Services Act [Pub. L. 115-123; 132 Stat. 64; 42 U.S.C. 675].
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

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

1. A referral alleging a child is a child in need of services may be made by a parent, guardian or other custodian, a law enforcement officer, a school official, or any other person that has knowledge of the facts alleged and believes such facts are true.
2. The referral must be set forth in writing and must set forth the following:
   a. The name, date of birth, and residence address of the child alleged to be a child in need of services;
   b. The names and residence addresses of the parent, guardian or legal custodian, any other family members, or any other individuals living within the child's home;
   c. The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the child; and
   d. Whether any of the matters required by this subsection are unknown.
3. If a school official is filing a referral alleging a child is a child in need of services, information must be included which shows:
   a. The legally responsible school district has sought to resolve the expressed problem through all appropriate and available educational approaches; and
   b. The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.
4. If a school official is filing a complaint alleging a child is a child in need of services involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or

Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725], information must be included which demonstrates that the legally liable school district:

a. Has determined the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act of 1990 [20 U.S.C. 1400 et seq.] or Section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 725]; and
b. Has reviewed for appropriateness the child's current individualized education program and placement and has made modifications as appropriate.

5. A referral alleging that a child is a child in need of services under section 27-20.2-01 must be sent to the applicable human service zone.

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

1. A child alleged to be in need of protection may be taken into protective custody:
   a. Pursuant to an order of the court under this chapter;
   b. By a law enforcement officer or designee if there are reasonable grounds to believe the child:
      (1) Is suffering from illness or injury or is in immediate danger from the child's surroundings, and the child's removal is necessary;
      (2) Is in violation of a city or county curfew; or
      (3) Has run away from the child's parents, guardian, or other custodian; or
   c. By order of the director made pursuant to section 27-20.3-04.
2. The taking of a child into protective custody is not an arrest, except for the purpose of determining the validity of the arrest under the Constitution of North Dakota or the United States Constitution.
3. A law enforcement officer may transport a child to and from a shelter care facility or a certified shelter care facility.
4. Without a compelling reason to the contrary, a court order transferring a child into custody must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.

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

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

**27-20.3-08. Release or delivery to court.**

1. A person taking a child into protective custody, with all reasonable speed and without first taking the child elsewhere, shall:
   a. Release the child to the child's parent, guardian, custodian, or other responsible adult able and willing to assume custody of the child, upon that person's promise to bring the child before the court if requested by the court, unless the child's shelter care is warranted or required; or
   b. Bring the child before the court or deliver the child to a shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment. The person taking the child into custody promptly shall give notice of taking the child into custody, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any questioning of the child necessary to comply with this subdivision must conform to the procedures and conditions prescribed by this chapter and rules of court.
2. If a parent, guardian, or other custodian, when requested, fails to bring the child before the court as provided in subsection 1, the court may issue a temporary custody order directing the child be taken into custody and brought before the court.

3. If the petition is not filed within thirty days from the date of protective custody, the child must be released from shelter care.

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

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

1. A licensed foster home or a home approved by the court;
2. A shelter care or certified shelter care facility operated by a licensed child welfare agency; or
3. Any other suitable place or facility, including a medical facility for the treatment of mental illness, alcoholism, or drug addiction, designated by the court.

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

1. If a child is brought before the court or delivered to a shelter care or certified shelter care facility, the human service zone immediately shall make an investigation and release the child unless it appears that the child's shelter care is warranted or required under section 27-20.3-07. If there is reason to believe the child may be an Indian child and the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 through 1963] may apply, the judge or referee may order the child be placed under the custody of the human service zone for a maximum of thirty days from the date of the emergency removal upon finding:
   a. A return of the child to the parent or Indian custodian would subject the child to imminent danger or harm;
   b. The court has been unable to transfer the proceeding to the appropriate Indian tribe; or
   c. Holding an adjudicatory hearing is not possible.
2. If the child is not released, a judge or referee shall hold a shelter care hearing promptly and not later than ninety-six hours after the child is placed in shelter care to determine whether there is probable cause to believe that the child is in need of protection and whether the child's shelter care is required under section 27-20.3-07. Reasonable notice, either oral or written, stating the time, place, and purpose of the shelter care hearing must be given to the child and, if able to be found, to the child's parents, guardian, or other custodian. Before the commencement of the hearing, the court shall inform the parties of the rights of the parties to counsel and to counsel at public expense if the parties are indigent.
3. If continued shelter care is required, the judge or referee may order that the child be kept in shelter care for no more than sixty days from the date the child was placed in shelter care.
4. As a condition to the child's release from shelter care, the court may order a parent, guardian, custodian, or any other member of the household in which the child resides to vacate the child's residence if probable cause exists to believe that the parent, guardian, custodian, or other member of the household has committed a sexual offense with or against the child, pursuant to sections 12.1-20-03 through 12.1-20-07 or section 12.1-20-11, and the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health. The court may order that the parent, guardian, or custodian not allow contact with an identified person if the court determines the order is in the best interests of the child.
5. If the child is not released and a parent, guardian, or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files an affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order the child's release, unless it appears from the hearing that the child's shelter care is required under section 27-20.3-07.

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

A child in need of services may be diverted.

**27-20.3-12. Petition - Who may prepare and file - Review.**

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

**27-20.3-13. Conduct of child in need of protection hearings.**

1. A hearing under this chapter must be conducted by the court without a jury, in an informal but orderly manner and separately from other proceedings not included in section 27-20.2-03 and in accordance with the North Dakota Rules of Juvenile Procedure.
2. If the hearing has not been held within the time limit, or any extension of the time limit, required by supreme court rule, the petition must be dismissed.
3. The state's attorney 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 must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
5. Juvenile court hearings are closed to the public even if the purpose of the hearing is to declare a person in contempt of court. The general public must be excluded from other hearings under this chapter. In hearings from which the general public is excluded, only the parties, counsel of the parties, witnesses, victims, and any other persons the court finds have a proper interest in the proceedings may be admitted by the court. The court may temporarily exclude the child or other person from the hearing if, after being warned by the court that disruptive conduct will cause removal from the courtroom, the child or other person persists in conduct that justifies removal from the courtroom.

**27-20.3-14. Adjudication.**

1. If the court finds from clear and convincing evidence that the child is in need of protection, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.
2. After hearing the evidence on the petition, the court shall make and file findings as to whether the child is in need of protection. If the court finds the child is not in need of protection, the court shall dismiss the petition and order the child discharged from any restriction previously ordered in the proceeding.
3. In hearings under this section, all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of the probative value of the evidence even though not otherwise competent in the hearing on the petition. The parties or the counsel of the parties must be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed.
4. On motion of the court or that of a party, the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition. In scheduling investigations and hearings the court shall give priority to proceedings in which a child has otherwise been removed from the child's home before an order of disposition has been made.

**27-20.3-15. Disposition of a child in need of protection. (Effective through July 31, 2027)**

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

a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.
b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
(1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
(2) The director of the human service zone to receive and provide care for the child.
c. Require the child or parents, guardian, or other custodian to participate in treatment.
d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian under section 27-20.1-11.
e. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, establish, by order, some other planned permanent living arrangement.

2. Without a compelling reason to the contrary, a court order that transfers the child from the current protective placement to a parent or other biological family must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.
3. A child in need of protection may not be placed in a residential facility that houses delinquent children.

**Disposition of a child in need of protection. (Effective after July 31, 2027)**

1. If a child is found to be a child in need of protection, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.
b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
(1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
(2) The director of the human service zone to receive and provide care for the child.
c. Require the parents, guardian, or other custodian to participate in treatment.
d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian under section 27-20.1-11.
e. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, establish, by order, some other planned permanent living arrangement.

2. Without a compelling reason to the contrary, a court order that transfers the child from the current protective placement to a parent or other biological family must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.
3. A child in need of protection may not be placed in a residential facility that houses delinquent children.

**27-20.3-16. Disposition of child needing continued foster care services.**

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

2. A petition to commence an action under this section must contain information as required by supreme court rule along with an affidavit either prepared by the administrative human service zone, as determined by the department of health and human services, or prepared by an agency or tribal council of a recognized Indian reservation in this state.
3. The court shall issue a summons upon the filing of a petition and affidavit.
4. If a child is in need of continued foster care services as determined by the human service zone or the department of health and human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:
   a. That the child is not in need of protection or delinquent, but is in need of continued foster care services;
   b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;
   c. That the child's continued foster care agreement has been willfully entered between:
      (1) The human service zone or the department of health and human services or its agent, the child, and the foster care provider; or
      (2) An agency or tribal council of a recognized Indian reservation in the state if the child is not subject to the jurisdiction of the state, the child, and the foster care provider;
   d. That it is in the best interest of the child to remain in or return to foster care;
   e. That reasonable efforts were made in accordance with subsection 7 of section 27-20.3-18;
   f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;
   g. That the child has satisfied the education, employment, or disability requirements under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of health and human services;
   h. That the human service zone, as determined by the department of health and human services, or that an agency or tribal council of a recognized Indian reservation in the state, shall continue foster care case management, unless otherwise agreed to or required by the department of health and human services;
   i. That the human service zone or an agency or tribal council of a recognized Indian reservation in the state must have care and placement responsibility of the child;
   j. That permanency hearing must be as set forth in section 27-20.3-26; and
   k. That there are no grounds to file a petition to terminate parental rights under section 27-20.3-20.
5. Pursuant to rule 16 of the North Dakota Rules of Juvenile Procedure, a court may modify or vacate the judicial determination made under subsection 4.

**27-20.3-17. Human service zone to report to committing juvenile court.**

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

**27-20.3-18. Reasonable efforts to prevent removal or to reunify - When required.**

1. As used in this section, "reasonable efforts" means the exercise of due diligence, by the agency granted authority over the child under this chapter, to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family or, after removal, to use appropriate

and available services to eliminate the need for removal, to reunite the child and the child's family, and to maintain family connections. In determining reasonable efforts to be made with respect to a child under this section, and in making reasonable efforts, the child's health and safety must be the paramount concern.

2. Except as provided in subsection 4, reasonable efforts must be made to preserve families, reunify families, and maintain family connections:
   a. Before the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home;
   b. To make it possible for a child to return safely to the child's home;
   c. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that such a joint placement would be contrary to the safety or well-being of any of the siblings; and
   d. In the case of siblings removed from the home of the siblings who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is contrary to the safety or well-being of any of the siblings.
3. If the court or the child's custodian determined that continuation of reasonable efforts, as described in subsection 2, is inconsistent with the permanency plan for the child, reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete steps that are necessary to finalize the permanent placement of the child.
4. Reasonable efforts of the type described in subsection 2 are not required if:
   a. A court of competent jurisdiction has determined a parent has subjected a child to aggravated circumstances; or
   b. The parental rights of the parent, with respect to another child of the parent, have been involuntarily terminated.
5. Efforts to place a child for adoption, with a fit and willing relative or other appropriate individual as a legal guardian, or in another planned permanent living arrangement, may be made concurrently with reasonable efforts of the type described in subsection 2.
6. Removal of a child from the child's home for placement in foster care must be based on judicial findings stated in the court's order, and determined on a case-by-case basis in a manner that complies with the requirements of titles IV-B and IV-E of the federal Social Security Act [42 U.S.C. 620 et seq. and 42 U.S.C. 6701 et seq.], as amended, and federal regulations adopted under this federal Act, provided that this subsection may not provide a basis for overturning an otherwise valid court order.
7. For the purpose of section 27-19.1-01, reasonable efforts were made under this section to meet the child's needs before a foster care placement for a child remaining in care for continued foster care purposes.

**27-20.3-19. Indian child welfare - Active efforts and procedures.**

Repealed by S.L. 2023, ch. 293, § 3.

**27-20.3-20. Termination of parental rights.**

1. The court by order may terminate the parental rights of a parent with respect to the parent's child if:
   a. The parent has abandoned the child;
   b. The child is subjected to aggravated circumstances;
   c. The child is in need of protection and the court finds:
      (1) The conditions and causes of the need for protection are likely to continue or will not be remedied and for that reason the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or
      (2) The child has been in foster care, in the care, custody, and control of the department or human service zone for at least four hundred fifty out of the previous six hundred sixty nights;
   d. The written consent of the parent acknowledged before the court has been given; or

e. The parent has pled guilty or nolo contendere to, or has been found guilty of engaging in a sexual act under section 12.1-20-03 or 12.1-20-04, the sexual act led to the birth of the parent's child, and termination of the parental rights of the parent is in the best interests of the child.

2. If the court does not make an order of termination of parental rights, it may grant an order under section 27-20.3-15 if the court finds from clear and convincing evidence that the child is in need of protection.

**27-20.3-21. Petition for termination of parental rights. (Effective through July 31, 2027)**

1. As used in this section:
   a. "A finding that the child has been subjected to child abuse or neglect" means:
      (1) A finding of a child in need of protection made under this chapter, except as provided in subdivision i of subsection 5 of section 27-20.3-01; or
      (2) A conviction of a person, responsible for a child's welfare, for conduct involving the child, under chapter 12.1-16 or sections 12.1-17-01 through 12.1-17-04 or 12.1-20-01 through 12.1-20-08.
   b. "Compelling reason" means a recorded statement that reflects consideration of:
      (1) The child's age;
      (2) The portion of the child's life spent living in the household of a parent of the child;
      (3) The availability of an adoptive home suitable to the child's needs;
      (4) Whether the child has special needs; and
      (5) The expressed wishes of a child age ten or older.
   c. "Department" means the department of health and human services.
   d. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
2. A petition for termination of parental rights must be prepared, filed, and served upon the parties by the state's attorney. A petition may also be prepared by any other person that is not the court, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true. A petition prepared by any person other than a state's attorney may not be filed unless the director or the court has determined the filing of the petition is in the best interest of the public and the child.
3. Except as provided in subsection 4, a petition for termination of parental rights must be filed:
   a. If the child has been in foster care, in the custody of the department, human service zone, or, in cases arising out of an adjudication by the court of a child in a delinquency case, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
   b. Within sixty days after the court has found the child to be an abandoned infant; or
   c. Within sixty days after the court has convicted the child's parent of one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
      (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1 of section 14-09-22 in which the victim is another child of the parent;
      (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
      (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury.
4. A petition for termination of parental rights need not be filed if:
   a. The child is being cared for by a relative approved by the human service zone;
   b. The human service zone has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests

and has notified the court that the documentation is available for review by the court; or

c. The human service zone has determined:
   (1) Reasonable efforts to preserve and reunify the family are required under section 27-20.3-26 to be made with respect to the child;
   (2) The case plan provides such services are necessary for the safe return of the child to the child's home; and
   (3) Such services have not been provided consistent with time periods described in the case plan.

5. For purposes of subsection 3, a child in foster care entered foster care on the earlier of:
   a. The date of the court's order if the court:
      (1) Made a finding that the child has been subjected to child abuse or neglect or the child is in need of protection under subdivision i of subsection 5 of section 27-20.3-01;
      (2) Determined that it is unsafe or contrary to the welfare of the child to remain in the home; and
      (3) Granted custody of the child to the human service zone or, in cases arising out of an adjudication by the court that a child is in need of services, the division of juvenile services; or
   b. The date that is sixty days after:
      (1) The date of a hearing under section 27-20.3-10 which results in maintaining a child in shelter care;
      (2) The date of an order in a dispositional hearing under which a child is placed in foster care; or
      (3) The date a child is placed in foster care voluntarily and with the consent of the child's parent.
6. For purposes of subsection 3, a child leaves foster care at the time:
   a. The court enters an order:
      (1) Denying a petition to grant care, custody, and control of the child to the human service zone or the division of juvenile services;
      (2) Terminating an order that granted custody of the child to the human service zone or the division of juvenile services; or
      (3) Appointing a legal guardian under chapter 27-20.1;
   b. The court order under which the child entered foster care ends by operation of law;
   c. The child is placed in a parental home by the court or a legal custodian other than the division of juvenile services and the legal custodian lacks authority to remove the child without further order of the court; or
   d. The child is placed in a parental home by the division of juvenile services.
7. For purposes of subsection 3, a child is not in foster care on any night during which the child is:
   a. On a trial home visit;
   b. Receiving services at the youth correctional center pursuant to an adjudication of delinquency; or
   c. Absent without leave from the place in which the child was receiving foster care.

**Petition for termination of parental rights. (Effective after July 31, 2027)**

1. As used in this section:
   a. "A finding that the child has been subjected to child abuse or neglect" means:
      (1) A finding of a child in need of protection made under this chapter; or
      (2) A conviction of a person, responsible for a child's welfare, for conduct involving the child, under chapter 12.1-16 or sections 12.1-17-01 through 12.1-17-04 or 12.1-20-01 through 12.1-20-08.
   b. "Compelling reason" means a recorded statement that reflects consideration of:
      (1) The child's age;

(2) The portion of the child's life spent living in the household of a parent of the child;
(3) The availability of an adoptive home suitable to the child's needs;
(4) Whether the child has special needs; and
(5) The expressed wishes of a child age ten or older.

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

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

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

3. Except as provided in subsection 4, a petition for termination of parental rights must be filed:
   a. If the child has been in foster care, in the custody of the department, human service zone, or, in cases arising out of an adjudication by the court of a child in a delinquency case, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
   b. Within sixty days after the court has found the child to be an abandoned infant; or
   c. Within sixty days after the court has convicted the child's parent of one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements:
      (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1 of section 14-09-22 in which the victim is another child of the parent;
      (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the parent; or
      (3) A violation of section 12.1-17-02 in which the victim is a child of the parent and has suffered serious bodily injury.

4. A petition for termination of parental rights need not be filed if:
   a. The child is being cared for by a relative approved by the human service zone;
   b. The human service zone has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests and has notified the court that the documentation is available for review by the court; or
   c. The human service zone has determined:
      (1) Reasonable efforts to preserve and reunify the family are required under section 27-20.3-26 to be made with respect to the child;
      (2) The case plan provides such services are necessary for the safe return of the child to the child's home; and
      (3) Such services have not been provided consistent with time periods described in the case plan.

5. For purposes of subsection 3, a child in foster care entered foster care on the earlier of:
   a. The date of the court's order if the court:
      (1) Made a finding that the child has been subjected to child abuse or neglect;
      (2) Determined that it is unsafe or contrary to the welfare of the child to remain in the home; and
      (3) Granted custody of the child to the human service zone or, in cases arising out of an adjudication by the court that a child is in need of services, the division of juvenile services; or
   b. The date that is sixty days after:

(1) The date of a hearing under section 27-20.3-10 which results in maintaining a child in shelter care;
(2) The date of an order in a dispositional hearing under which a child is placed in foster care; or
(3) The date a child is placed in foster care voluntarily and with the consent of the child's parent.

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

**27-20.3-22. Proceeding for termination of parental rights.**

1. The petition must contain information required by the North Dakota Rules of Juvenile Procedure and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20.3-23.
2. If both of the biological parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry must include, to the extent necessary and appropriate, all of the following:
   a. Whether any man is presumed to be the father of the child under chapter 14-20.
   b. Whether the biological mother of the child was cohabiting with a man at the time of conception or birth of the child.
   c. Whether the biological mother of the child has received from any man support payments or promises of support with respect to the child or in connection with the pregnancy.
   d. Whether any individual has formally or informally acknowledged or declared that individual's possible parentage of the child.
   e. Whether any individual claims any right to custody of the child.
3. The court shall add as respondent to the petition and cause to be served with a summons any individual identified by the court as an unnamed parent, unless the individual has relinquished parental rights, or parental rights have been previously terminated by a court.
4. If the court, after inquiry, is unable to identify an unnamed parent and no individual has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.
5. If a petition for termination of parental rights is made by a parent of the child under this section or if a parent consents to termination of parental rights, that parent is entitled to legal counsel during all stages of a proceeding to terminate the parent and child relationship.

6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this section, the order may not be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.
7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the director of the human service zone.

**27-20.3-23. Effect of order terminating parental rights or appointing a legal guardian.**

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

**27-20.3-24. Disposition upon termination of parental rights.**

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
   a. Commit the child to the custody of the human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence of such an agreement, in a foster home;
   b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
   c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.
4. Unless chapter 27-19.1 or the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.] applies, and if after conducting a diligent and exhaustive search, a fit and willing relative interested in adoption is not located, a human service zone director or licensed child-placing agency that places a child for adoption under subdivision a of subsection 1, shall consider granting the adoptive placement to a licensed, certified, or approved family foster home for children provider interested in adopting the child, if the licensed, certified, or approved family foster home for children provider provided foster care to the child:
   a. For one year or longer leading up to the termination of parental rights; and
   b. Without a correction order, fiscal sanction, or license revocation proceeding.
5. Subsection 4 does not apply if considering the adoptive placement to the licensed, certified, or approved family foster home for children provider would result in siblings who are placed for adoption being placed in separate homes.

**27-20.3-25. Court order required for removal of child.**

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

**27-20.3-26. Limitations of time on orders of disposition.**

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition requiring services for the family without the removal of custody may not exceed twelve months from disposition unless extended by the court. The human service zone may request two extensions of up to four months each for the family to complete the treatment goals of the court order and the case plan.
3. Except as provided in subsection 2, an order of disposition pursuant to which a child is placed in foster care may not continue in force for more than twelve months after the child is considered to have entered foster care. Before the extension of any court order limited under this subsection, a permanency hearing must be conducted. Any other order of disposition may not continue in force for more than twelve months.
4. Unless the requirements of a permanency hearing were fulfilled at the hearing, a permanency hearing must be held within thirty days of the court's determination that reasonable efforts to return the child home are not required.
5. Except after a termination of parental rights finding, the court may terminate an order of disposition before the expiration of the order or extend its duration for further periods. An order of extension may be made if:
   a. A hearing is held before the expiration of the order upon motion of a party or on the court's own motion;
   b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
   c. The court finds the extension is necessary to accomplish the purposes of the order extended; and
   d. The extension does not exceed twelve months from the expiration of an order limited by subsection 3 or two years from the expiration of any other limited order.
6. The court may terminate an order of disposition or extension before its expiration, on or without an application of a party, if it appears to the court the purposes of the order have been accomplished. If a party may be affected adversely by the order of termination, the order may be made only after reasonable notice and opportunity to be heard have been given to the party.
7. Except as provided in subsection 1, when the child attains the age of eighteen years, all orders affecting the child who is the subject of a child in need of protection order then in force terminate and the child is discharged from further obligation or control.
8. If an order of disposition is made with respect to a child under the age of ten years pursuant to which the child is placed in foster care without terminating parental rights and the parent and child relationship, the court, before extending the duration of the order, shall determine upon the extension hearing whether the child is adoptable and whether termination of those rights and that relationship is warranted under section 27-20.3-20 and is in the best interest of the child. In that case the notice of the extension hearing also must inform the parties affected that the court will determine whether the child is adoptable and whether termination of their parental rights and the parent and child relationship is warranted and in the best interest of the child and that a further order of disposition may be made by the court placing the child with a view to adoption. If the court determines the child is adoptable and termination of parental rights and the parent and child relationship is warranted and is in the best interest of the child, the court shall make a further order of disposition terminating those rights and that relationship and committing the child under section 27-20.3-24.