

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 283

HOUSE BILL NO. 1207

(Representatives DeKrey, Disrud, Kingsbury, Kretschmar, Maragos)

CLERK OF COURT FEES

AN ACT to amend and reenact section 27-05.2-04 of the North Dakota Century Code, relating to receipt of fees and other moneys by clerks of district court and the creation of a special fund; to provide for a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-05.2-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05.2-04. (Effective January 4, 2004, through December 31, 2002)
Clerk to keep record of fees - Monthly report to county auditor or state treasurer - Continuing appropriation. The clerk of the district court shall keep a public record of all money received as fees for services rendered as clerk. Within three days after the close of each calendar month, and also at the close of the clerk's term of office for a clerk who has not become a state employee under subsection 3 or 4 of section 27-05.2-02, the clerk shall file with the county auditor a statement under oath showing the amount of fees received as clerk since the date of the clerk's last report and within three days thereafter the clerk shall deposit with the county treasurer the total sum of such fees which must be used for facilities, except fees that the clerk is directed to deposit with the state treasurer or is authorized expressly to retain. Within three days after the close of each calendar month, a clerk who has become a state employee under subsection 3 or 4 of section 27-05.2-02 shall file with the state treasurer a statement under oath showing the amount of fees received by the clerk since the date of the clerk's last report. Within three days thereafter, the clerk shall deposit with the state treasurer the total sum of fees required to be deposited in the general fund or in a designated special fund. The clerk shall forward to the county treasurer any fees received under section 27-05.2-03 which are not required to be deposited in the state general fund or a designated special fund. Those fees must be used for facilities. ~~The clerk may establish a special account in the Bank of North Dakota or in a banking institution designated as a depository of public funds under chapter 21-04~~ A special court receivables fund is established in the state treasury for purposes of depositing any money received by the clerk which is not required to be deposited in the state general fund, a designated different special fund, or the county treasury and which is received as bail or restitution, or otherwise received pursuant to an order of the court. The clerk shall make payments from the special account Moneys in the special fund are appropriated to the judicial branch on a continuing basis for purposes of refunding bail, forwarding restitution amounts to the entitled recipient, or otherwise making payments as directed by an order of the court. To facilitate making payments from the special fund, the clerk may establish a special account in the Bank of North Dakota or in a banking institution designated as a depository of public funds under

chapter 21-04. If money deposited as bail is forfeited, the clerk shall submit the appropriate sum to the state treasurer for deposit in the state general fund. If the clerk is unable to make payments from the special account because the address of the recipient is unknown or the recipient cannot otherwise be located, the clerk shall dispose of the deposited money in accordance with chapter 47-30.1.

(Effective January 1, 2003) Clerk to keep record of fees - Monthly report to county auditor or state treasurer - Continuing appropriation. A clerk of the district court providing clerk services in accordance with subsection 2 or 6 of section 27-05.2-02 shall keep a public record of all money received as fees for services rendered as clerk. Within three days after the close of each calendar month, the clerk shall file with the county auditor a statement under oath showing the amount of fees received as clerk since the date of the clerk's last report and within three days thereafter the clerk shall deposit with the county treasurer the total sum of such fees which must be used for facilities, except fees that the clerk is directed to deposit with the state treasurer or is authorized expressly to retain. Within three days after the close of each calendar month, a clerk who has become a state employee under subsection 3 or 4 of section 27-05.2-02 shall file with the state treasurer a statement under oath showing the amount of fees received by the clerk since the date of the clerk's last report. Within three days thereafter, the clerk shall deposit with the state treasurer the total sum of fees required to be deposited in the general fund or in a designated special fund. The clerk shall forward to the county treasurer any fees received under section 27-05.2-03 which are not required to be deposited in the state general fund or a designated special fund. Those fees must be used for facilities. ~~The clerk may establish a special account in the Bank of North Dakota or in a banking institution designated as a depository of public funds under chapter 21-04~~ A special court receivables fund is established in the state treasury for purposes of depositing any money received by the clerk which is not required to be deposited in the state general fund, a designated different special fund, or the county treasury and which is received as bail or restitution, or otherwise received pursuant to an order of the court. The clerk shall make payments from the special account Moneys in the special fund are appropriated to the judicial branch on a continuing basis for purposes of refunding bail, forwarding restitution amounts to the entitled recipient, or otherwise making payments as directed by an order of the court. To facilitate making payments from the special fund, the clerk may establish a special account in the Bank of North Dakota or in a banking institution designated as a depository of public funds under chapter 21-04. If money deposited as bail is forfeited, the clerk shall submit the appropriate sum to the state treasurer for deposit in the state general fund. If the clerk is unable to make payments from the special account because the address of the recipient is unknown or the recipient cannot otherwise be located, the clerk shall dispose of the deposited money in accordance with chapter 47-30.1.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 14, 2001
Filed March 15, 2001

CHAPTER 284

SENATE BILL NO. 2274

(Senator Dever)

(Representatives Dosch, Meier)

SMALL CLAIMS ACTION FILING

AN ACT to amend and reenact section 27-08.1-02 of the North Dakota Century Code, relating to filing a small claims action.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-08.1-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-08.1-02. Commencement of action - Claim affidavit. Actions in the small claims court are commenced whenever any person executes and files with the court a claim affidavit, and causes the affidavit to be served by a person of legal age, not a party to or interested in the action, ~~the affidavit~~ on the defendant or mails it to the defendant by certified mail along with a form upon which the defendant must indicate whether a hearing is requested and whether the defendant elects to remove the action to district court. If, within twenty days of service of the affidavit and form, the court has not received a request for a hearing or an election to remove to district court, or if the defendant indicates that a hearing is not requested, a hearing will not be scheduled and judgment may be entered against the defendant by default. If the defendant requests a hearing in small claims court, the hearing must be not less than ten days and not more than thirty days after receipt of the request. Except for an action under subdivision e of subsection 2 of section 27-08.1-01, the mailing, or personal service, may be made anywhere within the state. Forms used in small claims court actions must be approved by the state court administrator and obtained from, or at the direction of, the clerk of district court or in electronic form from the supreme court.

Approved March 21, 2001

Filed March 21, 2001

CHAPTER 285

SENATE BILL NO. 2383 (Senators Traynor, Solberg, Trenbeath)

JUROR COMPENSATION

AN ACT to amend and reenact section 27-09.1-14 of the North Dakota Century Code, relating to the compensation of jurors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-09.1-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-09.1-14. Mileage and compensation of jurors. A juror must be paid mileage at the rate provided for state employees in section 54-06-09. A juror must be compensated at the rate of twenty-five dollars for the first day and fifty dollars for each subsequent day of required attendance at sessions of the district court and ten dollars for each day of required attendance at sessions of a coroner's inquest. The mileage and compensation of jurors must be paid by the state for jurors at sessions of the district court. Jurors at coroner's inquests must be paid by the county.

Approved April 5, 2001
Filed April 5, 2001

CHAPTER 286

HOUSE BILL NO. 1071

(Judiciary Committee)

(At the request of the Supreme Court)

BOARD OF LAW EXAMINERS

AN ACT to amend and reenact sections 27-11-01, 27-11-03.1, 27-11-06, 27-11-07, 27-11-08, 27-11-09, 27-11-10, 27-11-11, 27-11-12, 27-11-13, 27-11-14, 27-11-15, 27-11-17, 27-11-19, 27-11-22, 27-11-23, 27-11-24, 27-12-02, 27-12-04, and 27-12-06 and subsections 2 and 3 of section 54-57-01 of the North Dakota Century Code, relating to changing the name of the state bar board to the board of law examiners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-11-01 of the North Dakota Century Code is amended and reenacted as follows:

27-11-01. Practicing law and serving on courts of record without certificate of admission and without payment of annual license fee prohibited - Penalty. Except as otherwise provided by state law or supreme court rule, a person may not 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~~ the person is not a party concerned, nor may a person be qualified to serve on a court of record unless ~~he~~ that person 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 of law examiners.

Any person who violates this section is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT. Section 27-11-03.1 of the North Dakota Century Code is amended and reenacted as follows:

27-11-03.1. Conviction not bar to certification - Exceptions. Conviction of an offense does not disqualify a person from a certificate of admission and licensure under this chapter unless the state ~~bar~~ board of law examiners and the supreme court determine that the offense has a direct bearing upon a person's ability to serve the public as an attorney and counselor at law, or that the person, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 3. AMENDMENT. Section 27-11-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-11-06. State ~~bar~~ board of law examiners established - Appointment and qualifications of board members. The state ~~bar~~ board ~~must consist of law examiners~~ consists of at least three but no more than five members appointed by the supreme court. At least three of the members of the board must be resident licensed members of the bar. Each board member must be appointed from a list of nominees

submitted by the bar association of the state of North Dakota. The supreme court may return the list to the bar association for additional nominees. If the bar association nominates a member for reappointment, a list of nominees is not required unless requested by the supreme court.

SECTION 4. AMENDMENT. Section 27-11-07 of the North Dakota Century Code is amended and reenacted as follows:

27-11-07. Oath of member of state ~~bar~~ board of law examiners. Each member of the state ~~bar~~ board of law examiners, within ten days after ~~his~~ appointment, shall qualify by taking the oath provided for civil officers.

SECTION 5. AMENDMENT. Section 27-11-08 of the North Dakota Century Code is amended and reenacted as follows:

27-11-08. Terms and removal of members of state ~~bar~~ board of law examiners. Members of the state ~~bar~~ board of law examiners must be appointed for a term of six years so arranged that one term expires on January first of every odd-numbered year. Any member of the state ~~bar~~ board may be removed at the pleasure of the supreme court.

SECTION 6. AMENDMENT. Section 27-11-09 of the North Dakota Century Code is amended and reenacted as follows:

27-11-09. Filling vacancies on state ~~bar~~ board of law examiners. If a vacancy in the membership of the state ~~bar~~ board of law examiners occurs by reason of the death, resignation, removal, or incapacity to serve of any member thereof, a successor must be appointed by the supreme court for the unexpired portion of the term of such member.

SECTION 7. AMENDMENT. Section 27-11-10 of the North Dakota Century Code is amended and reenacted as follows:

27-11-10. Officers of state ~~bar~~ board of law examiners. The state ~~bar~~ board of law examiners shall elect one of its members president, who ~~shall hold said~~ holds office for a term of two years and until ~~his~~ a successor is duly elected and qualified. The clerk of the supreme court must be ex officio secretary-treasurer of the board.

SECTION 8. AMENDMENT. Section 27-11-11 of the North Dakota Century Code is amended and reenacted as follows:

27-11-11. Compensation of members of state ~~bar~~ board of law examiners. Each member of the state ~~bar~~ board of law examiners shall receive twenty-five dollars per day for the actual time devoted ~~by him~~ to the official duties of his office, and, in addition thereto, ~~shall~~ is entitled to receive the actual expenses incurred ~~by him~~ in attending to his official duties while away from ~~his~~ the member's place of residence.

SECTION 9. AMENDMENT. Section 27-11-12 of the North Dakota Century Code is amended and reenacted as follows:

27-11-12. Compensation of secretary-treasurer of state ~~bar~~ board of law examiners. The secretary-treasurer of the state ~~bar~~ board of law examiners must be allowed such compensation for ~~his~~ services and ~~such~~ expenses as the board ~~shall~~ determine determines.

SECTION 10. AMENDMENT. Section 27-11-13 of the North Dakota Century Code is amended and reenacted as follows:

27-11-13. Powers of state ~~bar~~ board of law examiners. The state ~~bar~~ board of law examiners may employ such assistants, purchase such supplies, and incur such expense as may be necessary to carry out the duties imposed upon it, but expenditures ~~therefor~~ may not exceed the moneys in the state bar fund. It ~~shall possess~~ possesses such other powers and duties relating to the admission of applicants to the bar as prescribed by state law or the supreme court.

SECTION 11. AMENDMENT. Section 27-11-14 of the North Dakota Century Code is amended and reenacted as follows:

27-11-14. Payment of compensation and expenditures of state ~~bar~~ board of law examiners. All claims for compensation of members and officers of the state ~~bar~~ board of law examiners and all claims for expenditures made by ~~such~~ the board must be submitted to the office of ~~the~~ management and budget on sworn vouchers as required by law and must be paid by the state treasurer of ~~this state~~ out of the state bar fund.

SECTION 12. AMENDMENT. Section 27-11-15 of the North Dakota Century Code is amended and reenacted as follows:

27-11-15. Records to be kept by state ~~bar~~ board of law examiners. The state ~~bar~~ board of law examiners shall keep a record of all of its proceedings and a record of all applications for admission and admissions to the bar of this state, and shall enroll in a book to be kept for ~~such~~ this purpose the name of each person admitted to practice in this state as an attorney at law.

SECTION 13. AMENDMENT. Section 27-11-17 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-11-17. Fee payable by all applicants for admission to bar - Disposition of fees. The state ~~bar~~ board of law examiners is entitled to receive a fee to be determined 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 submits to examination by the ~~state bar~~ board and a fee to be determined by the ~~state bar~~ board with the approval of the supreme court of an amount not to exceed four hundred dollars from each applicant for admission to the bar of this state who seeks admission upon motion in accordance with state law or supreme court rule. All fees received must be deposited and disbursed in accordance with section 54-44-12.

SECTION 14. AMENDMENT. Section 27-11-19 of the North Dakota Century Code is amended and reenacted as follows:

27-11-19. Supreme court to order issuance of certificate of admission. The supreme court, after receiving ~~from~~ and considering the state ~~bar~~ board a of law examiners' report of the results of an examination of applicants for admission to the bar of this state and the recommendations of ~~such~~ the board, and after considering ~~the same~~, shall enter an order authorizing the issuance of certificates of admission to the bar to ~~such~~ those applicants ~~therefor~~ as ~~such~~ the court considers entitled ~~thereto~~ to admission. ~~Such order may be given in term time or in vacation and the~~ The issuance of ~~such~~ the certificates is dependent upon the taking of the oath and pledge of office by the applicants at ~~such~~ the time and place as ~~such~~ the order may provide provides.

SECTION 15. AMENDMENT. Section 27-11-22 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-11-22. Annual licenses to practice law and to serve on certain courts - Requirement - Issuance - Fees. ~~Every~~ A 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 judge of a court of record, ~~shall~~ must secure an annual license from the state ~~bar~~ board of law examiners on or before January first of each year. The secretary-treasurer of the board shall issue the license upon compliance with the rules adopted or approved by the supreme court to assure the professional competence of attorneys, and upon payment of a fee established by the state bar association at its annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed four hundred dollars. The license is valid for the calendar year for which it is issued. Issuance of an annual license to practice law may not be conditioned upon payment of any surcharge, assessment, or fee in excess of the maximum fee established by this section. This section does not prohibit imposition of a reasonable fee for filing and processing reports of compliance with continuing education requirements.

SECTION 16. AMENDMENT. Section 27-11-23 of the North Dakota Century Code is amended and reenacted as follows:

27-11-23. Fees from annual licenses to be deposited in state bar fund. The secretary-treasurer of the state ~~bar~~ board of law examiners shall deposit and disburse all fees and moneys collected by the board in accordance with section 54-44-12.

SECTION 17. AMENDMENT. Section 27-11-24 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-11-24. Expenditure of state bar fund. Moneys in the state bar fund must be used to pay:

1. The bar association of the state of North Dakota the sum required to be paid ~~by the provisions of~~ under section 27-12-04;
2. The compensation and expenses allowed by law to each member and to the secretary-treasurer of the state ~~bar~~ board of law examiners;
3. The expenses incurred by the state ~~bar~~ board of law examiners in conducting examinations of applicants for admission to the bar of this state and expenses of the ~~state bar~~ board or a grievance committee of the supreme court in investigating charges warranting the suspension or disbarment of members of the bar, or in prosecutions brought and conducted before the supreme court for the discipline of such members;
4. The expenses incurred by the bar association of the state of North Dakota in conducting investigations and prosecutions of proceedings instituted for the purpose of protecting the public and the bar of North Dakota against unauthorized practice by corporations, limited liability companies, or persons not licensed to practice law; and
5. The necessary expenses of conducting and supplying the offices of the state ~~bar~~ board of law examiners.

SECTION 18. AMENDMENT. Section 27-12-02 of the North Dakota Century Code is amended and reenacted as follows:

27-12-02. Membership of state bar association. The membership of the state bar association of North Dakota consists of every person:

1. Who has secured an annual license to practice law in this state from the state ~~bar~~ board of law examiners in accordance with section 27-11-22; or
2. Who has an unrevoked certificate of admission to the bar of this state and who has paid an annual membership fee to the state bar association. The annual fee must be established by the state bar association at its annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed eighty percent of the maximum fee for an annual license to practice law in this state as prescribed in section 27-11-22.

SECTION 19. AMENDMENT. Section 27-12-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-12-04. Moneys payable from state bar fund to state bar association. The state bar association of North Dakota, out of the state bar fund, must receive, for operation of the lawyer discipline system, ~~fifty dollars of each license fee beginning January 1, 1998,~~ and seventy-five dollars of each license fee beginning January 1, 1999. Eighty percent of the remaining amount of the annual license fees paid by licensed members must be paid to the state bar association for the purpose of administering and operating the association. These sums must be paid quarterly to the association by the state ~~bar~~ board of law examiners upon vouchers drawn in accordance with section 54-44-12.

SECTION 20. AMENDMENT. Section 27-12-06 of the North Dakota Century Code is amended and reenacted as follows:

27-12-06. Method of expenditure of association's funds - Annual report of receipts and disbursements. Expenditures of funds from the state bar association special fund which consists of all moneys or fees collected or received by the association and which is deposited or disbursed in accordance with section 54-44-12, must be approved by the president and executive director of said association. The secretary-treasurer of said association, in addition to the duties imposed ~~upon him~~ by the constitution, bylaws, and rules of the association, annually shall file in the office of the secretary-treasurer of the state ~~bar~~ board of law examiners an itemized statement of the receipts and disbursements of said association.

¹⁴⁵ **SECTION 21. AMENDMENT.** Subsections 2 and 3 of section 54-57-01 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

¹⁴⁵ Section 54-57-01 was also amended by section 30 of House Bill No. 1030, chapter 293.

2. The office is under the direction of a director of administrative hearings who must be free of any association that would impair the director's ability to function officially in a fair and objective manner. The director must be an attorney at law in good standing, admitted to the bar in this state, and currently licensed by the state ~~bar~~ board of law examiners. The director of administrative hearings must be appointed by the governor and confirmed by the senate and shall hold office for a term of six years, the term beginning July first of the year of appointment and ending June thirtieth of the sixth calendar year after appointment.
3. The director of administrative hearings may preside as an administrative law judge at administrative hearings and may employ or appoint additional administrative law judges to serve in the office as necessary to fulfill the duties of office as described in section 54-57-04 and section 28-32-08.5 and to provide administrative law judges to preside at administrative hearings as requested by agencies. ~~After August 1, 1995, the~~ The director of administrative hearings may employ or appoint only such additional administrative law judges who are attorneys at law in good standing, admitted to the bar in the state, and currently licensed by the state ~~bar~~ board of law examiners. The director may delegate to an employee the exercise of a specific statutory power or duty as deemed advisable, subject to the director's control, including the powers and duties of a deputy director. All administrative law judges must be classified employees, except that the director of administrative hearings must be an unclassified employee who only may be removed, during a term of office, for cause. Each administrative law judge must have a demonstrated knowledge of administrative practices and procedures and must be free of any association that would impair the person's ability to function officially in a fair and objective manner.

Approved March 19, 2001

Filed March 19, 2001

CHAPTER 287**SENATE BILL NO. 2396**

(Senators Holmberg, Traynor, Trenbeath)

**ATTORNEY PROPERTY DELIVERY AND BOND
ELIMINATED**

AN ACT to repeal sections 27-13-05, 27-13-06, and 27-13-07 of the North Dakota Century Code, relating to an attorney's refusal to deliver a client's money or property and the furnishing of a bond.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 27-13-05, 27-13-06, and 27-13-07 of the North Dakota Century Code are repealed.

Approved March 21, 2001

Filed March 21, 2001

CHAPTER 288

HOUSE BILL NO. 1358 (Representatives Mahoney, Keiser) (Senators Holmberg, C. Nelson)

UNIFORM JUVENILE COURT ACT REVISIONS

AN ACT to amend and reenact section 27-20-02, subsection 1 of section 27-20-06, sections 27-20-08, 27-20-10, and 27-20-17, subsection 2 of section 27-20-20.1, sections 27-20-22, 27-20-25, and 27-20-31, subsection 4 of section 27-20-32.2, subsections 2 and 4 of section 27-20-36, and subsection 3 of section 27-20-47 of the North Dakota Century Code, relating to definitions, filing petitions, duties of juvenile supervisors, informal adjustments, continued shelter care, termination of parental rights, and disposition of a delinquent child under the Uniform Juvenile Court Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁶ **SECTION 1. AMENDMENT.** Section 27-20-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-20-02. Definitions. 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) To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.

¹⁴⁶ Section 27-20-02 was also amended by section 9 of House Bill No. 1049, chapter 55, and section 2 of Senate Bill No. 2116, chapter 136.

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 a period equal to the lesser of:
 - (1) One year; or
 - (2) One-half of the child's lifetime, measured in days, as of the date a petition alleging aggravated circumstances is filed;
 - 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, or 12.1-16-03, or subdivision a of subsection 1 of section 14-09-22;
 - (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03; or
 - (3) A violation of section 12.1-17-02 in which the victim 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; or
 - f. Has been incarcerated under a sentence for which the latest release date is:
 - (1) In the case of a child age nine or older, after the child's majority; or
 - (2) In the case of a child, after the child is twice the child's current age, measured in days.
4. "Child" means an individual who is:
 - a. Under the age of eighteen years and is neither married and cohabiting with spouse nor in the military service of the United States; or
 - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years.

5. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of a court.
6. "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 subdivision c of subsection ~~46~~ 18 and is not a traffic offense as defined in subsection ~~45~~ 17.
7. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
8. "Deprived child" 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 deprivation 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; or
 - 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.
9. "Detention" means a physically secure facility with locked doors and does not include shelter care, attendant care, or home detention.
10. "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 person under chapter 30.1-27, and who consents in writing to act as a legal guardian.
- ~~40.~~ 11. "Home" when used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
- ~~44.~~ 12. "Juvenile court" means the district court of this state.
- ~~42.~~ 13. "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:

- 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. 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 will be placed in another planned permanent living arrangement;
 - e. 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 the out-of-state placement continues to be appropriate and in the child's best interests; and
 - f. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living.
- ~~43.~~ 14. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.
- ~~44.~~ 15. "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.
- ~~45.~~ 16. "Shelter care" means temporary care of a child in physically unrestricted facilities.
- ~~46.~~ 17. "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 manslaughter resulting from the operation of a motor vehicle in violation of section 12.1-16-02; negligent homicide in violation of

section 12.1-16-03; and driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.

- ~~47.~~ 18. "Unruly child" means a child who:
- a. Is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian and is ungovernable; or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Has committed an offense applicable only to a child;
 - d. Has committed a noncriminal traffic offense without ever having been issued an operator's license or permit if one was required; or
 - e. Has committed an offense in violation of section 39-08-18 or 5-01-08; and
 - f. In any of the foregoing instances is in need of treatment or rehabilitation.
- ~~48.~~ 19. "Willfully" has the meaning provided in section 12.1-02-02.

SECTION 2. AMENDMENT. Subsection 1 of section 27-20-06 of the North Dakota Century Code is amended and reenacted as follows:

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a juvenile supervisor shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine complaints and charges of delinquency, unruly conduct, or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter.
 - c. Supervise and assist a child placed on probation or in his protection, supervision, or care by order of the court or other authority of law.
 - d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - e. Take into custody and detain a child who is under his supervision or care as a delinquent, unruly, or deprived child if he has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter. Except as provided by this chapter, a juvenile supervisor does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this chapter against a child who is or may be under his care or supervision.

- f. Administer oaths.
- g. Take acknowledgments of instruments for the purpose of this chapter.
- h. Make such temporary order not to exceed ~~thirty days~~ ninety-six hours for the custody and control of a child alleged to be deprived as may be deemed appropriate. ~~Such an~~ The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.
- i. Perform all other functions designated by this chapter or under section 27-05-30 or by order of the court pursuant thereto, including, if qualified, those of a referee. ~~Juvenile supervisors who were serving as juvenile commissioners on July 1, 1969, may perform the functions of a referee under this chapter without being members of the bar.~~
- j. Perform such functions relating to domestic relations matters as directed by his appointing district judge, acting in accordance with section 27-05-29.

SECTION 3. AMENDMENT. Section 27-20-08 of the North Dakota Century Code is amended and reenacted as follows:

27-20-08. Commencement of proceedings. A proceeding under this chapter may be commenced:

1. By transfer of a case from another court as provided in section 27-20-09;
2. By the court accepting jurisdiction as provided in section 27-20-40 or accepting supervision of a child as provided in section 27-20-42; or
3. In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the proceeding must be entitled "In the interest of _____, a child". If a child is in shelter care, the petition must be filed within thirty days of the shelter care hearing under section 27-20-17. If the petition is not filed, the child must be released from shelter care.

SECTION 4. AMENDMENT. Section 27-20-10 of the North Dakota Century Code is amended and reenacted as follows:

27-20-10. Informal adjustment.

1. Before a petition is filed, the juvenile supervisor or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:
 - a. The admitted facts bring the case within the jurisdiction of the court;
 - b. Counsel, advice and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and

- c. The child and ~~his~~ the child's parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory.
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. If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section.
3. An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto may not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding against him after conviction for the purpose of a presentence investigation.

SECTION 5. AMENDMENT. Section 27-20-17 of the North Dakota Century Code is amended and reenacted as follows:

27-20-17. Release from detention or shelter care - Hearing - Conditions of release.

1. If a child is brought before the court or delivered to a detention or shelter care facility designated by the court, the juvenile supervisor, the intake officer, or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that the child's detention or shelter care is warranted or required under section 27-20-14.
2. If the child is not released, a ~~petition under section 27-20-21 must be promptly made and presented to the court.~~ A judge or referee shall hold a detention or shelter care hearing promptly and not later than ninety-six hours after the child is placed in detention or shelter care to determine whether there is probable cause to believe the child has committed the delinquent or unruly acts alleged, or the child is deprived and whether the child's detention or shelter care is required under section 27-20-14. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention or shelter care hearing must be given to the child and, if they can be found, to the child's parents, guardian, or other custodian. ~~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.~~ Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency or unruly conduct.

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 of the shelter care hearing.
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.
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 detention or shelter care is required under section 27-20-14.

SECTION 6. AMENDMENT. Subsection 2 of section 27-20-20.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Except as provided in subsection 3, 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, or, in cases arising out of an adjudication by the court that a child is an unruly child, the division of juvenile services, for at least four hundred fifty out of the previous six hundred sixty nights;
 - b. Within sixty days after a court of competent jurisdiction has found the child to be an abandoned infant; or
 - c. Within sixty days after a court of competent jurisdiction 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 subdivision a of 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.

SECTION 7. AMENDMENT. Section 27-20-22 of the North Dakota Century Code is amended and reenacted as follows:

27-20-22. Summons.

1. After the petition has been filed, the court shall fix a time for hearing ~~thereon, which.~~ Except as otherwise provided in this subsection, the hearing may not be later than thirty days after the filing of the petition. If the child is in detention, the time for the initial hearing may not be later than fourteen days after the child has been taken into custody. If a child is in shelter care, the hearing on the petition must be held within sixty days of the initial shelter care hearing. 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 must 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 must accompany the summons unless the summons is served by publication in which case the published summons must indicate the general nature of the allegations and where a copy of the petition can be obtained.
2. The court may endorse upon the summons an order directing the parents, guardian, or other custodian of the child to appear personally at the hearing and directing the person having the physical custody or control of the child to bring the child to the hearing.
3. If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering ~~his~~ the child's health or welfare or those of others, or that ~~he~~ the child may abscond or be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer shall serve the summons and take the child into immediate custody and bring ~~him forthwith~~ the child before the court.
4. The summons ~~shall~~ must state that a party is entitled to counsel in the proceedings and that the court will appoint counsel if the party is unable without undue financial hardship to employ counsel.
5. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, ~~his~~ the child's counsel, with the consent of the parent, guardian, or other custodian, or guardian ad litem, may waive service of summons in ~~his~~ the child's behalf.
6. When a child is in detention or shelter care and good cause is shown why service was not completed upon an absent or noncustodial parent, the court may proceed with the hearing on the petition in order to comply with any time limitations under this chapter.

SECTION 8. AMENDMENT. Section 27-20-25 of the North Dakota Century Code is amended and reenacted as follows:

27-20-25. Service by publication - Interlocutory order of disposition.

1. If service of summons upon a party is being or will be made by publication, the court may conduct a provisional hearing upon the allegations of the petition and enter an interlocutory order of disposition if:
 - a. The petition alleges delinquency, unruly conduct, or deprivation of the child;
 - b. The summons served upon any party (1) states that prior to the final hearing on the petition designated in the summons a provisional hearing thereon will be held at a specified time and place, (2) requires ~~the~~ any party who is served other than by publication to appear and answer the allegations of the petition at the provisional hearing, (3) states further that findings of fact and orders of disposition made pursuant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing, and (4) otherwise conforms to section 27-20-22; and
 - c. ~~The~~ If the child is of sufficient age and understanding to comprehend the proceedings, the child must be personally before the court at the provisional hearing.
2. All provisions of this chapter applicable to a hearing on a petition, to orders of disposition, and to other proceedings dependent thereon apply under this section, but findings of fact and orders of disposition have only interlocutory effect pending the final hearing on the petition. The rights and duties of the party served, who is being served, or who will be served by publication are not affected except as provided in subsection 3.
3. If the party served by publication fails to appear at the final hearing on the petition, the findings of fact and interlocutory orders made become final without further evidence and are governed by this chapter as if made at the final hearing. If the party appears at the final hearing, the findings and orders must be vacated and disregarded and the hearing must proceed upon the allegations of the petition without regard to this section, unless otherwise agreed to by the party who had been served by publication.

SECTION 9. AMENDMENT. Section 27-20-31 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-20-31. Disposition of delinquent child. If the child is found to be a delinquent child, ~~or admits to a traffic-related offense in an informal adjustment hearing,~~ the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation, and welfare:

1. Any order authorized by section 27-20-30 for the disposition of a deprived child;
2. Placing the child on probation under the supervision of the juvenile supervisor, probation officer, or other appropriate officer of the court or of the court of another state as provided in section 27-20-41 or the

director of the county social service board under conditions and limitations the court prescribes;

3. Ordering the child to pay a fine if the delinquent act committed by the child constitutes manslaughter resulting from the operation of a motor vehicle in violation of section 12.1-16-02; negligent homicide in violation of section 12.1-16-03; or driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance. The court may suspend the imposition of a fine imposed pursuant to this subsection upon such terms and conditions as the court may determine. Fines collected pursuant to this subsection must be paid into the county treasury for disposition pursuant to section 29-27-02.1;
4. Placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority;
5. Committing the child to the division of juvenile services or to another state department to which commitment of delinquent or unruly children may be made. When necessary, the commitment order may provide that the child initially be placed in a secure facility;
6. Ordering the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both;
7. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or policies adopted by the supreme court; or
8. Under section 27-20-31.1, order the driver's license or permit of the child to be delivered to the juvenile supervisor, probation officer, or other appropriate officer of the court and to inform the director of the department of transportation of the child's suspension of driving privileges and the duration of the suspension of privileges.

SECTION 10. AMENDMENT. Subsection 4 of section 27-20-32.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Reasonable efforts of the type described in subsection 2 are not required if:
 - a. A court of competent jurisdiction has determined that a parent has subjected ~~the~~ 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.

SECTION 11. AMENDMENT. Subsections 2 and 4 of section 27-20-36 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. An order of disposition committing a delinquent or unruly child to the division of juvenile services continues in force for not more than two years, excluding any period of time the child is on parole from an institution, or until the child is sooner discharged by an institution.

- a. The court which made the order may extend its duration for additional two-year periods subject to like discharge, if:
 - (1) A hearing is held upon motion of the division, or on the court's own motion, prior to the expiration of the order;
 - (2) Reasonable notice of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or other custodian; and
 - (3) The court finds that the extension is necessary for the treatment or rehabilitation of the child.
 - b. A permanency hearing must be conducted within thirty days after a court determines that reasonable efforts aggravated circumstances of the type described in subdivisions a, c, d, or e of subsection 2 3 of section ~~27-20-32.2~~ are not required 27-20-02 exist, or within twelve months after a child, subject to an order of disposition under this subsection, is considered to have entered foster care, or is continued in foster care following a previous permanency hearing. The permanency hearing may be conducted:
 - (1) By the division of juvenile services as a placement hearing under chapter 27-21; or
 - (2) By the court, if the court requires, or if it appears that an appropriate permanency plan could not be carried out without exceeding the authority of the division of juvenile services.
4. Except as provided in subsection 1, 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. ~~However, the court may order that the child permanently remain in foster care with a specified caregiver and that the duration of the order be left to the determination of the court if the court determines that:~~
 - ~~(1) All reasonable efforts have been made to reunite the child with the child's family;~~
 - ~~(2) The deprivation is likely to continue;~~

- (3) ~~With respect to a child under the age of ten, termination of parental rights and subsequent adoption would not be in the best interests of the child; and~~
- (4) ~~The placement of the child in permanent foster care is in the best interests of the child.~~

SECTION 12. AMENDMENT. Subsection 3 of section 27-20-47 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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.

Approved April 13, 2001
Filed April 13, 2001

CHAPTER 289

SENATE BILL NO. 2220

(Senators Nething, Lyson)

JUVENILE CARE AND TREATMENT EXPENSES

AN ACT to amend and reenact subsection 2 of section 27-20-49 of the North Dakota Century Code, relating to costs and expenses of transporting juveniles for medical care and treatment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 27-20-49 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The supreme court shall pay reasonable compensation for services and related expenses of counsel appointed by the court for a party and reasonable compensation for a guardian ad litem. The attorney general shall pay the witness fees, mileage, and travel expense of witnesses incurred in the proceedings under this chapter in the amount and at the rate provided for in section 31-01-16. Expenses of the state include the cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court if the child is in the legal custody of a state agency in which case the cost must be ~~borne~~ reimbursed to the county by that state agency at the state mileage rate, excluding meals and lodging, plus twenty-nine cents per mile.

Approved April 23, 2001

Filed April 23, 2001

CHAPTER 290

SENATE BILL NO. 2105

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

JUVENILE SERVICES RECORDS

AN ACT to create and enact a new section to chapter 27-21 of the North Dakota Century Code, relating to the files and records of the division of juvenile services; and to amend and reenact section 27-20-51.1 of the North Dakota Century Code, relating to disclosure of information needed to apprehend juveniles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-51.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-20-51.1. Disclosure of information needed to apprehend juvenile. Notwithstanding any other provision of law, the name, photographs, fingerprints, or other identifying information of a juvenile who is alleged to have committed a delinquent act involving actual or threat of serious bodily injury that would constitute a felony if committed by an adult or who has escaped or left without authorization from a secure facility may be released by law enforcement, the division of juvenile services, or the juvenile court for purposes of apprehending the juvenile.

SECTION 2. A new section to chapter 27-21 of the North Dakota Century Code is created and enacted as follows:

Division of juvenile services files and records confidentiality.

1. The files and records of the division of juvenile services relating to a juvenile committed to the division may not be disclosed directly or indirectly to any person, organization, or agency, except as provided in this section.
2. Notwithstanding any other provisions of law relating to confidentiality, except for the confidentiality requirements of federal drug and alcohol treatment and rehabilitation laws, the division may disclose all or part of a juvenile's files and records, including juvenile court orders, medical, psychological, education, and treatment and counseling records, to individuals employed by the following if the knowledge is reasonably necessary in the best interest of the juvenile and for the protection of others:
 - a. The district court or juvenile court.
 - b. A parent or legal guardian of the juvenile, or their counsel, or the juvenile's counsel, when the juvenile court has committed the juvenile to the custody of the division of juvenile services, and the records are relevant to a proceeding under chapter 27-20 or to a placement hearing under section 27-21-02.1, or when disclosure is necessary for the juvenile's treatment and rehabilitation plan. If the

- juvenile court determines that it is against the best interests of the juvenile to disclose records to a parent or legal guardian, the juvenile court may issue an order prohibiting disclosure and describing the records that may not be disclosed.
- c. An employee or agent of any division of the department of corrections and rehabilitation when necessary to carry out the duties of the department.
 - d. The department of human services or a county social service agency.
 - e. A licensed hospital or medical facility, a public or private treatment facility, or a residential care or treatment facility, when necessary for the evaluation, treatment, or care of a juvenile in the custody of the division of juvenile services.
 - f. A law enforcement agency when the division has reasonable grounds to believe the juvenile has committed a delinquent act or has threatened to commit a delinquent act involving serious bodily injury, or when the juvenile is required to register, or is registered, under section 12.1-32-15.
 - g. A school district or multidistrict special education program in which the juvenile is enrolled.
 - h. The office of the attorney general.
 - i. The risk management division of the office of management and budget, and investigators, consultants, or experts retained by the state for the purpose of investigating and defending claims under chapter 32-12.2.
3. A person, agency, or institution receiving information or records under this section may not redisclose the information or records and shall maintain the confidentiality of the information or records.
 4. The division may disclose nonidentifying information for research and statistical purposes.
 5. The division may disclose the files and records of a juvenile under subdivision f or g of subsection 1 of section 27-20-51.
 6. The division shall disclose information to the extent necessary to comply with section 12.1-34-02.
 7. In all other cases, records and files of the division of juvenile services relating to a juvenile committed to its custody may only be open to inspection upon written leave of the juvenile court upon a showing in writing of a legitimate interest, but only to the extent necessary to respond to the legitimate interest.