

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1089
(Human Services Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to create and enact a new subsection to section 27-21-02 and two new subsections to section 27-21-12 of the North Dakota Century Code, relating to the powers and duties and files and records of the division of juvenile services; to amend and reenact sections 12-46-04, 12-46-09, 12-46-10, 12-46-10.1, 12-46-18, and 12-46-19 of the North Dakota Century Code, relating to the North Dakota youth correctional center; and to repeal sections 12-46-03, 12-46-05, 12-46-06, 12-46-11, 12-46-20, and 12-46-22 of the North Dakota Century Code, relating to the North Dakota youth correctional center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-46-04 of the North Dakota Century Code is amended and reenacted as follows:

12-46-04. Appointment and removal of officers. ~~The director of the division of juvenile services with the approval of the director of the department of corrections and rehabilitation shall appoint the superintendent. The superintendent may be removed by the director of the division of juvenile services with the approval of the director of the department of corrections and rehabilitation for misconduct, neglect of duty, incompetency, or other proper cause showing an inability or refusal to properly perform the duties of the office. All other officers and employees must be appointed by the superintendent, subject to the approval of the director of the division of juvenile services. The superintendent shall show in the record of any officer or employee who is discharged by the superintendent the reason therefor is the administrator of the North Dakota youth correctional center. The director may designate officers or employees of the North Dakota youth correctional center to carry out the administrator's duties.~~

SECTION 2. AMENDMENT. Section 12-46-09 of the North Dakota Century Code is amended and reenacted as follows:

12-46-09. Superintendent Administrator may make rules.

- ~~1.~~ 1. The superintendent, subject to the approval of the director of the division of juvenile services, ~~shall~~ administrator may make rules and regulations not in conflict with the laws of this state:
- ~~4.~~ 1. ~~a.~~ For the admission of visitors.
- ~~2.~~ 2. ~~b.~~ For the government of officers and employees of the North Dakota youth correctional center.
- ~~3.~~ 3. ~~c.~~ For the conduct of ~~students~~ children committed to the North Dakota youth correctional center.
2. A printed copy of the rules and regulations must be furnished to each ~~student~~ child committed to the North Dakota youth correctional center at the time the ~~student~~ child is received and to each officer or employee at the time of hire. Two copies of such rules must be furnished to the state law library for the use of the state officials and the public.

SECTION 3. AMENDMENT. Section 12-46-10 of the North Dakota Century Code is amended and reenacted as follows:

12-46-10. Records of institutional transactions, complaints, and rule infractions. ~~The superintendent administrator shall cause to be kept~~ maintain a correct record of all the transactions of the office and a correct account of all the superintendent's doings. ~~The superintendent shall keep a memorandum of every complaint of cruel and unjust treatment of any officer or other person, and also of any infraction of the rules and regulations of the school by any of the students committed thereto, naming the student, and specifying the offense and the punishment, if any, inflicted therefor, and such record and memorandum must be laid before the director of the division of juvenile services upon request~~ North Dakota youth correctional center.

SECTION 4. AMENDMENT. Section 12-46-10.1 of the North Dakota Century Code is amended and reenacted as follows:

12-46-10.1. Disciplinary committee - Members - Duties. ~~The superintendent of the North Dakota youth correctional center administrator shall appoint a disciplinary committee. The membership of this committee should include, including one cottage supervisor; and one member of the professional staff, and may include one student and one member of the general public, as determined by the superintendent. The committee shall hear all charges of serious breach of discipline violations of North Dakota youth correctional center rules and regulations and recommend to the superintendent administrator what disciplinary action, if any, should be administered. The committee shall maintain records of its actions. These records are subject to review by the director of the division of juvenile services department of corrections and rehabilitation, the attorney general, or any legislative committee upon request. Nothing in this section may be construed to prevent the superintendent from placing a child under close supervision immediately after that child commits a serious breach of discipline, however, within forty eight hours the disciplinary committee shall hear the case and make its recommendations to the superintendent concerning further action to be taken, if any.~~

SECTION 5. AMENDMENT. Section 12-46-18 of the North Dakota Century Code is amended and reenacted as follows:

12-46-18. Employment and compensation of ~~persons committed~~ children. Every person child committed to the custody of the division of juvenile services and ~~transferred to~~ placed at the North Dakota youth correctional center ~~or its auxiliary facilities~~ may receive a stipend as determined by the superintendent, and approved by the director of the division of juvenile services administrator, within the limits of appropriations made by the legislative assembly for such purpose.

SECTION 6. AMENDMENT. Section 12-46-19 of the North Dakota Century Code is amended and reenacted as follows:

12-46-19. Disposition of moneys earned received. ~~The superintendent administrator of the North Dakota youth correctional center shall keep a students' account ledger, in which shall be opened an account with each student~~ an account for each child placed at the North Dakota youth correctional center. ~~The earnings of each student money in each child's account may be used for the child's personal needs as approved by the superintendent administrator.~~

SECTION 7. A new subsection to section 27-21-02 of the North Dakota Century Code is created and enacted as follows:

If the division of juvenile services receives any money on behalf of a child committed to its custody and care under this section for child support, payments in excess of foster care maintenance payments, or money received from the social security administration, the division may establish an account for the child and use the money in a manner it determines will serve the best interests of the child, including setting aside any amounts for the child's future needs or making all or part of the money available to the person responsible for meeting the child's daily needs to be used for the child's benefit.

SECTION 8. Two new subsections to section 27-21-12 of the North Dakota Century Code are created and enacted as follows:

The records of the division relating to an individual who is or has been in the custody of the division may be disclosed to any court or probation staff for use in conducting a presentence investigation in a criminal case in which the individual is a defendant.

The records of the division relating to an individual who is or has been in the custody of the division may be disclosed to the United States social security administration upon written authorization for disclosure by the individual's parent or legal guardian if the individual is a child, or if the individual is no longer a child, by the individual.

SECTION 9. REPEAL. Sections 12-46-03, 12-46-05, 12-46-06, 12-46-11, 12-46-20, and 12-46-22 of the North Dakota Century Code are repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1089.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State