

# JUDICIAL BRANCH OF GOVERNMENT

## CHAPTER 239

### HOUSE BILL NO. 1073

(Judiciary Committee)  
(At the request of the Supreme Court)

AN ACT to create and enact a new section to chapter 27-02 of the North Dakota Century Code, relating to declaration of a judicial emergency.

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

**SECTION 1.** A new section to chapter 27-02 of the North Dakota Century Code is created and enacted as follows:

#### Judicial emergency.

1. If the supreme court of this state declares a judicial emergency due to an emergency or natural disaster that substantially endangers or infringes upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, or the ability of litigants or others to have access to the courts or to meet schedules or time deadlines imposed by law or court order, notice of the declaration must be provided as required by supreme court rule.
2. An order declaring a judicial emergency may suspend, toll, extend, or otherwise grant relief from deadlines, time schedules, statutes of limitations, statutes of repose, or filing requirements imposed by law, whether in civil or criminal cases, administrative matters, or any other legal proceedings as determined by the supreme court. An order declaring a judicial emergency may not suspend, toll, extend, or otherwise grant relief from deadlines, time schedules, or filing requirements that are required by the United States Constitution or the Constitution of North Dakota.

Approved March 26, 2013  
Filed March 27, 2013

**CHAPTER 240****SENATE BILL NO. 2076**

(Judiciary Committee)  
(At the request of the Supreme Court)

AN ACT to amend and reenact section 4 of chapter 261 of the 2009 Session Laws, relating to judgeships created in 2010.

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

**SECTION 1. AMENDMENT.** Section 4 of chapter 261 of the 2009 Session Laws is amended and reenacted as follows:

**SECTION 4. DISTRICT JUDGES.** The appropriation provided in section 1 of this Act provides for two additional district court judges to be assigned pursuant to section 10 of article VI of the Constitution of North Dakota in the northwest and southeast judicial districts, and to be assigned to chambers by the supreme court. Within thirty days after January 1, 2010, the judgeship vacancies created by this section shall be filled in accordance with section 13 of article VI of the Constitution of North Dakota. In accordance with sections 9 and 13 of article VI of the Constitution of North Dakota, each judge appointed to fill a vacancy created by this section continues in the office until the next general election following appointment and if elected holds office for the remainder of the term and until a successor is elected and duly qualified.

Approved April 11, 2013  
Filed April 11, 2013

## CHAPTER 241

### HOUSE BILL NO. 1075

(Judiciary Committee)  
(At the request of the Supreme Court)

AN ACT to amend and reenact section 27-05-30 of the North Dakota Century Code, relating to judicial referees.

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

**SECTION 1. AMENDMENT.** Section 27-05-30 of the North Dakota Century Code is amended and reenacted as follows:

##### **27-05-30. Judicial referees.**

1. ~~There may be appointed in each judicial district, by~~The presiding judge of a judicial district, on behalf of the judges of ~~the district court having jurisdiction therein, may appoint~~ one or more referees to serve on a full-time or part-time basis. A referee is entitled to receive a salary within the limits of legislative appropriation.
2. ~~A district court~~In accordance with rules of the supreme court, the presiding judge may assign a referee to preside in any case or proceeding provided for in chapter 12.1-31.2, title 14, sections 20.1-01-28 and 20.1-01-29, chapter 27-20, and chapter 28-25 pursuant to rules of the supreme court, subsection 6 of section 50-09-08.6, and subsection 2 of section 50-09-14.
3. The supreme court may promulgate rules for the qualification of referees, the extent and assignment of authority by the ~~district court judges of the judicial districts~~presiding judge, procedure, and the conduct of the office, including regulations for training sessions and continuing education.

Approved April 15, 2013  
Filed April 16, 2013

## CHAPTER 242

### HOUSE BILL NO. 1074

(Judiciary Committee)  
(At the request of the Supreme Court)

AN ACT to amend and reenact section 27-05.2-09 of the North Dakota Century Code, relating to membership of the court facilities improvement advisory committee.

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

**SECTION 1. AMENDMENT.** Section 27-05.2-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **27-05.2-09. Court facilities improvement advisory committee - Members.**

1. The court facilities improvement advisory committee consists of:
  - a. One member appointed by the North Dakota association of counties to represent counties with a population fewer than seven thousand five hundred.
  - b. One member appointed by the North Dakota association of counties to represent counties with a population of seven thousand five hundred or more.
  - c. ~~One member~~The state court administrator, who shall serve as chairman of the committee, ~~appointed by the chief justice of the supreme court.~~
  - d. One member appointed by the state bar association of North Dakota.
  - e. One member appointed by the chairman of the legislative management.
2. The term of each member is three years. Initially, as determined by lot, one member shall serve for one year, two members shall serve for two years, and two members shall serve for three years. At the end of the member's term, the appointing authority shall appoint a successor for a full three-year term. ~~A~~Except for the state court administrator, a member may not serve more than two 3-year terms. A vacancy must be filled by the appointing authority for the remainder of the term.
3. At the initial meeting of the committee, the committee shall adopt rules of operation and procedure for the committee. The committee shall submit the rules to the supreme court for approval. The rules of operation must provide that a quorum of the committee consists of at least four members.
4. The members of the committee are entitled to reimbursement for travel and expenses as provided by law for other state officers. Travel and expense costs must be paid from funds from the court facilities improvement and maintenance fund.
5. The supreme court shall provide staff services for the committee.

Approved March 26, 2013

Filed March 27, 2013

## **CHAPTER 243**

### **SENATE BILL NO. 2272**

(Senators Nelson, Armstrong, Hogue)  
(Representatives Hawken, Maragos, Strinden)

AN ACT to repeal chapter 27-06 of the North Dakota Century Code, relating to district court reporters and bailiffs.

#### **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. REPEAL.** Chapter 27-06 of the North Dakota Century Code is repealed.

Approved April 8, 2013  
Filed April 8, 2013

## CHAPTER 244

### HOUSE BILL NO. 1417

(Representatives Klemin, Hogan, Kretschmar)  
(Senators Sitte, Sorvaag, Unruh)

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

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

**SECTION 1. AMENDMENT.** Section 27-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **27-08.1-01. Small claims court - Jurisdictional limits - Venue.**

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, when the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed ~~ten~~fifteen thousand dollars.
2. The proceedings in this court must be commenced:
  - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
  - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
  - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
    - (1) In the county of the defendant's residence or place of business; or
    - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
  - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
  - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property, in the county where the defendant resides or in the county where the real property is located.

- f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
3. Except for an action under subdivision c, e, or f of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

**SECTION 2. AMENDMENT.** Section 27-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor.**

No formal pleadings other than the claim affidavit and order for appearance may be required, and the hearing and disposition of actions must be informal. A court reporter is not required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed ~~ten~~fifteen thousand dollars, which must be served upon the plaintiff by a person of legal age, not a party to or interested in the action, or mailed to the plaintiff by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule does not apply to counterclaims in excess of ~~ten~~fifteen thousand dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the debtor, at the hearing, as would be made under chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury is not allowed in small claims court. A fee as prescribed in subdivision c of subsection 1 of section 27-05.2-03 must be charged for filing the claim affidavit.

Approved April 1, 2013  
Filed April 1, 2013

---

**CHAPTER 245****SENATE BILL NO. 2086**

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subdivision c of subsection 4 of section 27-20-30.1 of the North Dakota Century Code, relating to foster care providers.

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

**SECTION 1. AMENDMENT.** Subdivision c of subsection 4 of section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. That the child's continued foster care agreement has been willfully entered between the department of human services or its agent, the child, and the foster ~~parent~~care provider;

Approved March 14, 2013

Filed March 15, 2013