

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 251

HOUSE BILL NO. 1068

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

AN ACT to repeal sections 27-04-01, 27-04-03, 27-04-04, 27-04-06, 27-04-07, and 27-04-08 of the North Dakota Century Code, relating to appointment of the supreme court reporter, the salary of the supreme court reporter, the location of the office of the supreme court reporter, duties of the supreme court reporter, and the sale and disposal of books and other library materials by the supreme court reporter.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 27-04-01, 27-04-03, 27-04-04, 27-04-06, 27-04-07, and 27-04-08 of the North Dakota Century Code are repealed.

Approved March 6, 2019

Filed March 6, 2019

CHAPTER 252

HOUSE BILL NO. 1516

(Representatives Longmuir, Brandenburg, M. Johnson, Klemin, K. Koppelman,
Vigesaa)
(Senators J. Lee, Vedaa, Wardner)

AN ACT to amend and reenact subsection 1 of section 27-05.2-03 of the North Dakota Century Code, relating to fees in civil cases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 27-05.2-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed ~~six~~seven hundred fifty thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14 and fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (3) For all other filings, sixty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.
 - c. For filing a small claims action in district court, ten dollars.
 - d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.
 - e. For preparing, certifying, issuing, or transmitting any document, ten dollars, or a lesser fee as may be set by the state court administrator.
 - f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk

shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 253

SENATE BILL NO. 2066

(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 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. The state court administrator, who shall serve as chairman of the committee.
 - 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. 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~~three 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 13, 2019

Filed March 14, 2019

CHAPTER 254**HOUSE BILL NO. 1118**

(Representatives K. Koppelman, Boe, Buffalo, Schauer)
(Senators J. Lee, Marcellais)

AN ACT to amend and reenact subsection 1 of section 27-09.1-05 of the North Dakota Century Code, relating to the master list for jury selection.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 27-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The clerk for each county shall compile and maintain a master list consisting of all lists of actual voters for the county supplemented with names from other lists of persons resident therein, such as lists of utility customers, property taxpayers, motor vehicle registrations, tribal registries if made available by a federally recognized Indian tribe in this state, and driver's licenses, which the supreme court of this state from time to time designates. In compiling the master list, the clerk shall avoid duplication of names.

Approved March 6, 2019

Filed March 6, 2019

CHAPTER 255

SENATE BILL NO. 2069

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

AN ACT to amend and reenact subsection 1 of section 27-20-06 of the North Dakota Century Code, relating to powers and duties of the director of juvenile court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁴ **SECTION 1. 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 director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine complaints and charges of delinquency or 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 for delinquency or unruly conduct, or both.
 - d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - e. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a delinquent, unruly, or deprived child. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - f. Administer oaths.
 - g. Take acknowledgments of instruments for the purpose of this chapter.
 - h. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be deprived as may be deemed appropriate. 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.

¹⁰⁴ Section 27-20-06 was also amended by section 3 of Senate Bill No. 2073, chapter 264.

- j. Issue an order to a law enforcement authority to transport a child to and from a specified location.
- k. 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. 675a].

Approved March 19, 2019

Filed March 20, 2019

CHAPTER 256

HOUSE BILL NO. 1520

(Representatives B. Koppelman, Devlin, Heinert, Klemin, K. Koppelman, Marschall,
Mock, Rohr)
(Senators Hogue, O. Larsen, D. Larson, Myrdal)

AN ACT to create and enact a new subdivision to subsection 1 of section 27-20-51 and a new subsection to section 27-20-51 of the North Dakota Century Code, relating to inspection of juvenile court records; and to amend and reenact sections 12.1-04-01, 27-20-14, and 27-20-31, subsection 3 of section 50-25.1-02, and section 50-25.1-05.3 of the North Dakota Century Code, relating to assessing mental fitness and capacity, detention, disposition of delinquent child, and child sexual abuse assessment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁵ **SECTION 1. AMENDMENT.** Section 12.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-01. Juveniles.

Persons

1. An individual under the age of seven~~ten~~ years are deemed incapable of commission of an offense defined by the constitution or statutes of this state. The prosecution of ~~any person~~ an individual as an adult is barred if the offense was committed while the ~~person~~ individual was less than fourteen years of age.
2. An individual ten years of age or older may be assessed for mental fitness or capacity under this chapter.

SECTION 2. AMENDMENT. Section 27-20-14 of the North Dakota Century Code is amended and reenacted as follows:

27-20-14. Detention of child - Juvenile drug court exception.

1. A child taken into custody may not be detained or placed in shelter care prior to the hearing on the petition unless the child's detention or care is required to protect the 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 when required, or an order for the child's detention or shelter care has been made by the court pursuant to this chapter.
2. Law enforcement shall use a detention screening tool to assure the appropriate use of detention. The juvenile court shall establish the detention

¹⁰⁵ Section 12.1-04-01 was also amended by section 1 of House Bill No. 1039, chapter 105.

screening tool, which must include objective factors to aid in the decision of placement of the child.

3. If a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the drug court may order the child detained in a juvenile detention center operated pursuant to chapter 12-44.1. The child may be detained twice during the child's participation in the program but the total period of detention under this subsection may not exceed four days in a one-year period.

¹⁰⁶ **SECTION 3. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is amended and reenacted as follows:

27-20-31. Disposition of delinquent child.

1. If the child is found to be a delinquent child, the court shall make findings and include in the order of disposition any actions or steps necessary to ensure:
 - a. The child receives the treatment or rehabilitation the court deems most appropriate;
 - b. Accountability to the victim; and
 - c. Safety of the community.
2. If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation, and welfare:
 1. a. Any order authorized by section 27-20-30 for the disposition of a deprived child;
 2. b. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court or the director of the county social service board under conditions and limitations the court prescribes;
 3. c. 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. d. 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;

¹⁰⁶ Section 27-20-31 was also amended by section 30 of Senate Bill No. 2124, chapter 391.

5. e. 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;
6. f. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or policies adopted by the supreme court; or
7. g. Ordering the child's participation in a juvenile drug court program.
3. If the delinquent act committed by the child was a sexual offense, the court shall ensure the child is assessed in a timely manner, not to exceed thirty days, with age-appropriate social assessments to determine the appropriate level of required treatment.

107 SECTION 4. A new subdivision to subsection 1 of section 27-20-51 of the North Dakota Century Code is created and enacted as follows:

A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.

108 SECTION 5. A new subsection to section 27-20-51 of the North Dakota Century Code is created and enacted as follows:

An individual with access or authorization to inspect juvenile court files and records under this section may not share the information contained in the files and records with any other person not authorized by law. An individual who violates this subsection is guilty of a class B misdemeanor.

109 SECTION 6. AMENDMENT. Subsection 3 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual, including a juvenile, who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.

SECTION 7. AMENDMENT. Section 50-25.1-05.3 of the North Dakota Century Code is amended and reenacted as follows:

¹⁰⁷ Section 27-20-51 was also amended by section 5 of House Bill No. 1520, chapter 256.

¹⁰⁸ Section 27-20-51 was also amended by section 4 of House Bill No. 1520, chapter 256.

¹⁰⁹ Section 50-25.1-02 was also amended by section 1 of House Bill No. 1108, chapter 416, section 124 of Senate Bill No. 2124, chapter 391, section 8 of Senate Bill No. 2245, chapter 406, and section 3 of Senate Bill No. 2273, chapter 108.

50-25.1-05.3. Disposition of reports implicating a person not responsible for the child's health or welfare.

1. Upon determination by the department or the department's designee that a report made under this chapter implicates a person other than a person responsible for a child's welfare, the department ~~may~~shall refer the report to an appropriate law enforcement agency for investigation and disposition.
2. If law enforcement determines a minor committed an act in violation of sections 12.1-20-01 through 12.1-20-04, section 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2 against another minor, law enforcement shall provide the report to the department. Law enforcement shall conduct a criminal investigation and shall coordinate with the department for the provision of services to the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors.
3. The department shall provide risk assessment, safety planning, and any appropriate evidence-based screening for the minors and any other minors under the same care. The department shall refer the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors, for appropriate services.

Approved April 17, 2019

Filed April 18, 2019

CHAPTER 257**SENATE BILL NO. 2088**

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

AN ACT to amend and reenact subsection 2 of section 27-20-24 of the North Dakota Century Code, relating to juvenile court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁰ **SECTION 1. AMENDMENT.** Subsection 2 of section 27-20-24 of the North Dakota Century Code is amended and reenacted as follows:

2. If the hearing has not been held within the time limit, or any extension thereof, required by ~~subsection 1 of section 27-20-22~~supreme court rule, the petition must be dismissed.

Approved April 8, 2019

Filed April 9, 2019

¹¹⁰ Section 27-20-24 was also amended by section 1 of House Bill No. 1478, chapter 258.

CHAPTER 258

HOUSE BILL NO. 1478

(Representatives Boschee, Becker, Hanson, M. Johnson, K. Koppelman)
(Senators Bakke, Hogue)

AN ACT to amend and reenact section 27-20-24 of the North Dakota Century Code, relating to juvenile hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Section 27-20-24 of the North Dakota Century Code is amended and reenacted as follows:

27-20-24. Conduct of hearings.

1. Hearings 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 27-20-03.
2. If the hearing has not been held within the time limit, or any extension thereof, required by subsection 1 of section 27-20-22, the petition must be dismissed.
3. The state's attorney upon request of the court shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
4. Except for informal adjustments under section 27-20-10, the proceedings must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
5. Hearings are open to the public if the purpose of the hearing is to declare a person in contempt of court ~~or to consider a petition alleging an offense identified under subdivision b of subsection 1 of section 27-20-34 or subsection 2 of section 27-20-34.~~ The general public must be excluded from other hearings under this chapter. In hearings from which the general public is excluded, only the parties, their counsel, 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.

Approved March 27, 2019

Filed March 28, 2019

¹¹¹ Section 27-20-24 was also amended by section 1 of Senate Bill No. 2088, chapter 257.

CHAPTER 259

SENATE BILL NO. 2185

(Senators Bakke, Myrdal, K. Roers)
(Representatives Boschee, K. Koppelman)

AN ACT to amend and reenact subsection 1 of section 27-20-44 of the North Dakota Century Code, relating to termination of parental rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹² **SECTION 1. AMENDMENT.** Subsection 1 of section 27-20-44 of the North Dakota Century Code is amended and reenacted as follows:

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 as defined under subsection 3 of section 27-20-02;
 - c. The child is a deprived child and the court finds:
 - (1) The conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof 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 a county social service board, or, in cases arising out of an adjudication by the juvenile 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; or
 - d. The written consent of the parent acknowledged before the court has been given.
 - 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.

Approved April 11, 2019

Filed April 12, 2019

¹¹² Section 27-20-44 was also amended by section 33 of Senate Bill No. 2124, chapter 391.

CHAPTER 260

HOUSE BILL NO. 1070

(Judiciary Committee)

(At the request of the Commission on Legal Counsel for Indigents)

AN ACT to amend and reenact subsection 2 of section 27-20-49 of the North Dakota Century Code, relating to the payment of witness fees, mileage, and travel expenses in juvenile court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹³ **SECTION 1. AMENDMENT.** Subsection 2 of section 27-20-49 of the North Dakota Century Code is amended and reenacted as follows:

2. The commission on legal counsel for indigents shall pay reasonable compensation for services and related expenses of counsel provided at public expense for a party and the supreme court shall pay 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, except the commission on legal counsel for indigents shall pay the witness fees, mileage, and travel expenses of witnesses subpoenaed by counsel employed by or contracted with the commission for 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 reimbursed to the county by that state agency at the state mileage rate, excluding meals and lodging, plus twenty-nine cents per mile.

Approved March 6, 2019

Filed March 6, 2019

¹¹³ Section 27-20-49 was also amended by section 6 of Senate Bill No. 2073, chapter 264, and section 38 of Senate Bill No. 2124, chapter 391.

CHAPTER 261

SENATE BILL NO. 2053

(Senators D. Larson, Schaible, Poolman)
(Representatives Nathe, Owens, Schreiber-Beck)

AN ACT to amend and reenact section 27-20-52 of the North Dakota Century Code, relating to inspection of law enforcement and correctional facility records and files of a child by an assistant superintendent or designee of a school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-52 of the North Dakota Century Code is amended and reenacted as follows:

27-20-52. Law enforcement and correctional facility records.

1. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20-34, the interest of national security requires, or the court otherwise orders in the interest of the child, the law enforcement and correctional facility records and files of a child alleged or found to be delinquent, unruly, or deprived are not open to public inspection; but inspection of these records and files is permitted by:
 - a. A juvenile court having the child before it in any proceeding;
 - b. Counsel for a party to the proceeding;
 - c. The officers of public institutions or agencies to whom the child is or may be committed;
 - d. Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties;
 - e. A court in which the child is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of correctional facilities to which the child is detained or committed, or by the parole board, the governor, or the pardon advisory board, if one has been appointed, in considering the child's parole or discharge or in exercising supervision over the child;
 - f. The professional staff of the uniform crime victims compensation program when necessary for the discharge of its duties pursuant to chapter 54-23.4; and
 - g. A superintendent, assistant superintendent, ~~or principal, or designee~~ of the school in which the child is currently enrolled or of a school in which the child wishes to enroll.
2. Notwithstanding that law enforcement records and files of a child alleged or found to be delinquent, unruly, or deprived are not open to public inspection,

this section does not limit the release of general information that does not identify the identity of the child.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 262

SENATE BILL NO. 2074

(Judiciary Committee)

(At the request of the Commission on Legal Counsel for Indigents)

AN ACT to amend and reenact subsection 2 of section 27-20-54 of the North Dakota Century Code, relating to the destruction of juvenile court records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁴ **SECTION 1. AMENDMENT.** Subsection 2 of section 27-20-54 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon the final destruction of a file or record, the proceeding must be treated as if it never occurred. The juvenile court shall notify each agency named in the file or record of the destruction. All index references, except those which may be made by the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and county social service agencies, must be deleted. Each agency, except the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and county social service agencies, upon notification of the destruction of a file or record, shall destroy all files, records, and references to the child's apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court. The attorney general, the department of human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and county social service agencies may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency. Upon inquiry in any matter the child, the court, and representatives of agencies, except the attorney general and the directors of the department of transportation, the department of human services, the department of corrections and rehabilitation, law enforcement agencies, and county social service agencies, shall properly reply that no record exists with respect to the child.

Approved March 14, 2019

Filed March 14, 2019

¹¹⁴ Section 27-20-54 was also amended by section 39 of Senate Bill No. 2124, chapter 391.

CHAPTER 263

SENATE BILL NO. 2153

(Senators Poolman, Kannianen, D. Larson, Marcellais)
(Representatives Keiser, Roers Jones)

AN ACT to create and enact a new section to chapter 27-20 of the North Dakota Century Code, relating to cooperative agreements to provide services to juveniles adjudicated in tribal court; to provide for a report to legislative management; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Tribal juvenile services cooperative agreement - Report to legislative management.

1. The department of corrections and rehabilitation, through the division of juvenile services; the supreme court, through the office of the state court administrator; and the Indian affairs commission may negotiate and enter a memorandum of understanding with the tribal government of a federally recognized Indian tribe in the state for the purpose of accepting and providing for, in accordance with this chapter, the treatment and rehabilitation of tribal juveniles who have been adjudicated in tribal court under tribal or federal laws. Under the pilot program and terms of a memorandum of understanding:
 - a. The tribal government and the juvenile court may exchange information relevant to the treatment and rehabilitation needs of a tribal juvenile and the juvenile's family, including tribal court orders, medical and psychiatric reports, law enforcement reports, and other information pertinent to the referral;
 - b. The juvenile court shall provide services based on the individualized need of each tribal juvenile referred to and accepted by both the tribal and juvenile court;
 - c. The juvenile court shall maintain regular contact with the tribe regarding each tribal juvenile who has been placed in the supervision of the juvenile court and shall provide quarterly case plans and more frequent reports if the juvenile's behavior warrants; and
 - d. The juvenile court may limit the number of tribal juveniles accepted based on criteria developed by the juvenile court and the availability of state resources and services.
2. Before July first of each even-numbered year, the department of corrections and rehabilitation, the juvenile court, and the Indian affairs commission shall report and make recommendations to the legislative management on the status, effectiveness, performance, and sustainability of a memorandum of understanding established under this section.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2021, and after that date is ineffective.

Approved March 28, 2019

Filed March 29, 2019

CHAPTER 264

SENATE BILL NO. 2073

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

AN ACT to create and enact chapter 27-20.1 of the North Dakota Century Code, relating to guardianships of children; to amend and reenact subsection 11 of section 27-20-02, section 27-20-03, subsection 1 of section 27-20-06, sections 27-20-46, 27-20-48.1, and subsection 1 of section 27-20-49 of the North Dakota Century Code, relating to guardianships of children; and to repeal sections 27-20-48.2, 27-20-48.3, and 27-20-48.4 of the North Dakota Century Code, relating to guardianships of children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁵ **SECTION 1. AMENDMENT.** Subsection 11 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

11. "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~~chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.

SECTION 2. AMENDMENT. Section 27-20-03 of the North Dakota Century Code is amended and reenacted as follows:

27-20-03. Jurisdiction.

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
 - a. Proceedings in which a child is alleged to be delinquent, unruly, or deprived;
 - b. Proceedings for the termination of parental rights except when a part of an adoption proceeding;
 - c. Proceedings arising under section 27-20-30.1; and
 - d. Civil forfeiture proceedings arising under chapter 19-03.1 or section 29-31.1-04 for which a child is alleged to have possessed forfeitable property. The juvenile court shall conduct the proceedings in accordance with the procedures provided for under sections 19-03.1-36 through 19-03.1-37.

¹¹⁵ Section 27-20-02 was also amended by section 24 of Senate Bill No. 2124, chapter 391.

2. The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this chapter:
 - a. Proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law;
 - b. Proceedings under the interstate compact on juveniles;
 - c. Proceedings under the interstate compact on the placement of children; and
 - d. Proceedings arising under section 50-06-06.13 to obtain a judicial determination that the placement of a severely emotionally disturbed child in an out-of-home treatment program is in the best interests of the child.
3. ~~The juvenile court has concurrent jurisdiction with the district court of proceedings for the appointment of a guardian for a minor which, if originated under this chapter, are governed by this chapter and chapter 30.1-27.~~

¹¹⁶ **SECTION 3. 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 director shall:
 - a. Make investigations, reports, and recommendations to the juvenile court.
 - b. Receive and examine complaints and charges of delinquency or 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 for delinquency or unruly conduct, or both.
 - d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
 - e. Issue a temporary custody order concerning a child who is referred to the director's supervision or care as a delinquent, unruly, or deprived child. Except as provided by this chapter, a director does not have the powers of a law enforcement officer.
 - f. Administer oaths.
 - g. Take acknowledgments of instruments for the purpose of this chapter.
 - h. Make such temporary order not to exceed ninety-six hours for the custody and control of a child alleged to be deprived as may be deemed appropriate. The order must be reduced to writing within twenty-four hours, excluding holidays and weekends.

¹¹⁶ Section 27-20-06 was also amended by section 1 of Senate Bill No. 2069, chapter 255.

- 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.
- j. Issue an order to a law enforcement authority to transport a child to and from a specified location.
- k. Receive and examine petitions to establish, modify, or terminate a guardianship of a minor under chapter 27-20.1.

SECTION 4. AMENDMENT. Section 27-20-46 of the North Dakota Century Code is amended and reenacted as follows:

27-20-46. Effect of order terminating parental rights or appointing a legal guardian.

4. 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. The parent is not thereafter 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.

- ~~2. An order appointing a legal guardian terminates any authority of a parent that is granted to the legal guardian under that order. A parent subject to such an order is entitled to treatment as a party at any subsequent juvenile court proceeding regarding the child.~~

SECTION 5. AMENDMENT. Section 27-20-48.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-48.1. Appointment of legal guardian of a child.

The court may establish a guardianship under chapter 27-20.1 as a dispositional alternative if a child has been adjudicated as deprived, unruly, or delinquent.

¹¹⁷ **SECTION 6. AMENDMENT.** Subsection 1 of section 27-20-49 of the North Dakota Century Code is amended and reenacted as follows:

1. The following expenses are a charge upon the funds of the county upon certification thereof by the court:
 - a. The cost of medical and other examinations and treatment of a child ordered by the court.
 - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children or to a private agency or individual other than a parent.
 - c. The cost of any necessary transportation for medical and other examinations and treatment of a child ordered by the court unless the child is in the legal custody of a state agency.
 - d. The cost of a guardian ad litem under subsection 5 of section 27-20.1-16 or section 30.1-27-06 or the cost of an attorney under subsection 6 of

¹¹⁷ Section 27-20-49 was also amended by section 1 of House Bill No. 1070, chapter 260, and section 38 of Senate Bill No. 2124, chapter 391.

section 27-20.1-16 if the court finds the parent's or child's estate is insufficient to meet the cost.

SECTION 7. Chapter 27-20.1 of the North Dakota Century Code is created and enacted as follows:

27-20.1-01. Definitions.

The definitions set forth in section 27-20-02 are applicable to this chapter.

27-20.1-02. Jurisdiction.

The juvenile court has exclusive original jurisdiction of proceedings to grant, modify, or terminate guardianship for a child, except the testamentary appointment of a guardian for a minor governed by chapter 30.1-27.

27-20.1-03. Transfer from district court.

If a court does not approve acceptance of a testamentary guardian of a minor under chapter 30.1-27, the court shall immediately transfer the guardianship portion of the case to the juvenile court and order the child be taken to the juvenile court immediately or to a place of shelter care designated by the juvenile court, or release the child to the custody of the child's custodian, relative, or other responsible adult able and willing to assume custody of the child, to be brought to the juvenile court at a time designated by the court. The juvenile court shall immediately reappoint the guardian ad litem who served in the probate case whenever possible, or shall immediately appoint an alternative guardian ad litem.

27-20.1-04. 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 deprivation is alleged, the proceeding may be brought in the county in which the child is present when it is commenced, the county in which the child has resided for the majority of the thirty days prior to the date of the alleged deprivation, or the county where the alleged deprivation has occurred. The court shall determine the appropriate venue for a deprivation action based on the best interest of the child.

27-20.1-05. Petition - Who may file.

A petition to establish, modify, or terminate a guardianship order, other than one that has been transferred by the district court under chapter 30.1-27, may be filed by any person interested in the welfare of the child who has knowledge of the facts alleged or has information and belief that the facts are true.

27-20.1-06. Contents of petition to appoint guardian of a child.

1. The petition must state that an order to appoint a guardian of a child is requested and the effect will be as stated in section 27-20.1-13.
2. The petition must also contain information required by rule 3 of the North Dakota Rules of Juvenile Procedure and include:
 - a. The name, address, and telephone number of the petitioner and the petitioner's relationship to the child;

- b. The full legal name and date of birth of the child, accompanied by a certified copy of the child's birth certificate unless the petitioner shows good cause for why the child's birth certificate is unavailable;
- c. The name, last known address, and telephone number of the mother and the name, last known address, and telephone number of the father, alleged father, or presumed father;
- d. If the name, last known address, or telephone number of the parents is not included, detailed information concerning the efforts made to locate the parents;
- e. The name, last known address, and telephone number of the persons having parental rights or visitation rights and the name, address, and telephone number of the persons or entity having the care, custody, or control of the child;
- f. The names, current addresses, and telephone numbers of the persons with whom the child currently lives;
- g. The names, addresses, and telephone numbers of the persons with whom the child has lived during the last five years;
- h. The names of any siblings or half-siblings of the child and with whom each sibling and half-sibling currently lives;
- i. The name and address of the proposed guardian, if different from the petitioner;
- j. The occupation and qualifications of the proposed guardian;
- k. The names, addresses, and telephone numbers of the spouse, parents, adult children, any adult siblings of the proposed guardian, and any adult who resides with or may reside with the proposed guardian;
- l. A brief description and the approximate value of the real and personal property and income of the child, so far as they are known to the petitioner;
- m. A brief description and the approximate value of any anticipated income of the child;
- n. A statement regarding each parent that that:
 - (1) The parent is deceased, accompanied by a copy of the death certificate;
 - (2) The parent consents to the guardianship, accompanied by an affidavit of the parent indicating consent and any limitations on the guardian's duties under section 27-20.1-15;
 - (3) The parent's rights have been previously terminated, accompanied by a certified copy of the court order terminating parental rights; or

- (4) The parent has deprived the child as that term is defined under section 27-20-02;
- o. A statement whether the petitioner:
- (1) Has participated, as a party, a witness, or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any; and
- (2) Knows of any proceeding that could affect the current proceeding, including proceedings for child support enforcement and proceedings relating to domestic violence protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;
- p. A statement setting forth the reasons why the petition is in the child's best interests; and
- q. A statement of whether the child is an Indian child as defined under Public Law 95-608 [92 Stat. 3069; 25 U.S.C.1903]. If the child is an Indian child, the petition must comply with the requirements of Public Law 95-608 [92 Stat. 3071; 25 U.S.C. 1911 et seq.].

27-20.1-07. Procedure upon filing of petition.

1. A supporting affidavit establishing the basis for the guardianship under subdivision n of subsection 2 of section 27-20.1-06, and that the guardianship is in the best interest of the child, must be filed with the petition. Where deprivation is alleged under paragraph 4 of subdivision n of subsection 2 of section 27-20.1-06, the petition must contain sufficient statements to establish deprivation unless the child has resided in the home of the proposed guardian for at least one year before the filing date of the petition.
2. A petition under this chapter must be reviewed by the court to determine whether the contents of the petition comply with section 27-20.1-06.
3. If a petition alleges deprivation, the petition will be reviewed by the court to determine whether there has been a sufficient showing of deprivation.
4. If the petitioner has made an insufficient showing of deprivation, the court, without oral argument or an evidentiary hearing shall issue an order denying the petition. If the petitioner has made a sufficient showing of deprivation justifying a guardianship, the court shall set a date for an evidentiary hearing.

27-20.1-08. Procedure upon approval of petition.

1. The court shall issue a summons in accordance with rule 5 of the North Dakota Rules of Juvenile Procedure and appoint a lay guardian ad litem upon the approval of the petition.
2. An initial hearing must be set in accordance with rule 2 of the North Dakota Rules of Juvenile Procedure.
3. For a petition filed under paragraphs 1, 2, or 3 of subdivision n of subsection 2 of section 27-20.1-06;

- a. The petitioner may request the court waive the hearing requirement.
- b. The petition must state any person interested in the welfare of the child who opposes the appointment of the proposed guardian shall file an objection to the appointment and a demand for hearing within ten days of the service of the petition. If an objection is not filed within ten days, the court may order the appointment of a guardian for the child without a hearing upon review of the guardian ad litem's report.
- c. If the petition is unopposed, the court may order appointment of a guardian on the strength of the pleadings, including the report of the guardian ad litem, if satisfied that the conditions of paragraphs 1, 2, or 3 of subdivision n of subsection 2 of section 27-20.1-06 have been met, or may conduct a hearing and require proof of the matters necessary to support the order sought. Before appointment of the guardian, the court shall consider whether the child has or will have significant excess assets and determine whether a conservatorship is necessary under chapter 30.1-29.
- d. The guardian ad litem shall file a report in accordance with rule 17 of the North Dakota Rules of Juvenile Procedure, within twenty days after appointment.

27-20.1-09. Right to counsel.

1. If, at any time in the proceeding, the court determines the interests of the child are or may be inadequately represented, the court may appoint an attorney to represent the child.
2. At a proceeding commenced under this chapter, a parent who is indigent and unable to employ legal counsel is entitled to counsel at public expense. If a parent appears without counsel the court shall ascertain whether the parent knows the parent may be represented by counsel and that the parent is entitled to counsel at public expense if indigent. The court may continue the proceeding to enable the parent to obtain counsel and, subject to this section, counsel must be provided for an unrepresented indigent parent upon the parent's request and the court's determination that the parent is indigent.
3. An indigent parent is one who meets the definition of indigent under the guidelines adopted by the commission on legal counsel for indigents.

27-20.1-10. Conduct of 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 27-20-03 or section 27-20.1-02.
2. The proceedings must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.
3. The petitioner shall present the evidence in support of any allegations of the petition not admitted.
4. The general public must be excluded from the hearing and only the parties, their counsel, witnesses, victims, and any other persons the court finds to have an interest in the proceedings may be admitted. 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 justifying removal from the courtroom.

5. If the child has or will have significant excess assets, the court shall determine whether a conservatorship is necessary under chapter 30.1-29.

27-20.1-11. Appointment of guardian of a child.

1. The court may appoint a guardian of a child if the court finds by clear and convincing evidence that the appointment is in the child's best interest and:
 - a. Both parents are deceased or the surviving parent's rights have been terminated by a previous court order, but there has been no appointment of a guardian for the child by will, the court has transferred the case to juvenile court without appointment of a guardian, or the testamentary guardian failed to accept the appointment under chapter 30.1-27;
 - b. The parents have consented in writing by affidavit;
 - c. All parental rights have been previously terminated; or
 - d. The child is a deprived child as defined under section 27-20-02.
2. The court may appoint as guardian any fit and willing person whose appointment would be in the best interest of the child. If the court finds by clear and convincing evidence that the child is of sufficient maturity to make a sound judgment, or the child is age fourteen or older, the court may give substantial weight to the preference of the child. The court shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.
3. The court may appoint a guardian as a dispositional alternative if a child has been adjudicated as deprived, unruly, or delinquent under chapter 27-20.

27-20.1-12. Findings on petition to appoint guardian of a child - Order of appointment.

1. After hearing the evidence on the petition or after a waiver of the hearing, the court shall make and file its findings as to whether the requirements of section 27-20.1-06 have been met, whether the guardian is a fit and willing person, and whether the appointment of the guardian is in the child's best interest.
2. Upon finding that the requirements of section 27-20.1-06 have been met, the guardian is a fit and willing person, and the appointment of the guardian is in the child's best interest, the court shall order the appointment. The order must contain:
 - a. The name, address, and telephone number of the guardian.
 - b. Notice of the right to appeal the guardianship appointment and of the right to seek modification or termination of the guardianship at any time.
 - c. If appropriate and in the child's best interest, the court shall determine the nature and extent, if any, of any contact, sharing of information, and

- visitation between the parents and the child, and the child and any other interested person.
- d. A requirement that the guardian provide, within ninety days from the date of the order, a beginning inventory of any assets owned by the child or in which the child has an interest. The guardian shall file with the court and serve a copy of the beginning inventory on the child if the child is fourteen years of age or older, and any interested persons designated by the court in its order.
 - e. The date on which the first annual report is due and the requirement to file annually thereafter.
 - f. The length of time the order is effective. An order appointing or reappointing a guardian under this chapter is effective for up to one year unless the court, upon a showing of good cause, sets a different time frame. An order may not be effective for more than three years.

27-20.1-13. Effect of order appointing a guardian.

1. An order appointing a guardian of a child suspends any authority of a parent that is granted to the guardian under that order. A parent subject to such an order is entitled to treatment as a party at any subsequent juvenile court proceeding regarding the child.
2. While a guardianship is in effect, the parent has the following rights:
 - a. Parenting time, contact, and information, to the extent delineated in the guardianship order issued by the court. A parent may petition the court for specific enforcement provisions of the order relating to contact, parenting time, or information; and
 - b. Inheritance from the child.
3. The parent has the primary responsibility to financially support the child.

27-20.1-14. Acceptance of appointment - Consent to jurisdiction - Letters of guardianship.

1. By accepting the appointment, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person.
2. By accepting the appointment, a guardian acknowledges the duty to file an annual report under section 27-20.1-15.
3. Upon the guardian's acceptance of the appointment, the court shall issue letters of guardianship. The letters of guardianship must contain:
 - a. The name, address, and telephone number of the guardian;
 - b. The full name of the child;
 - c. Any limitations on the guardian's authority to make decisions on behalf of the child;

- d. The expiration date of the appointment; and
- e. The date by which the guardian must file the annual report required under section 27-20.1-15.

27-20.1-15. Powers and duties of guardian of a child.

1. A guardian of a child has the powers and responsibilities of a legal custodian if there is a parent with remaining parental rights. If there is no parent with remaining parental rights, the guardian has the rights of a legal custodian and the authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment. A guardian is not liable to third persons by reason of the parental relationship for acts of the child.
2. A guardian has the following powers and duties:
 - a. The guardian must take reasonable care of the child's personal effects and commence protective proceedings if necessary to protect other property of the child.
 - b. The guardian may receive money payable for the support of the child to the child's parent, guardian, or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship, or custodianship.
 - (1) The guardian may receive money or property of the child paid or delivered by virtue of section 30.1-26-03. Any sums received must be applied to the child's current needs for support, care, and education.
 - (2) The guardian must exercise due care to conserve any excess sum for the child's future needs unless a conservator has been appointed for the estate of the child, in which case the excess sum must be paid over at least annually to the conservator. Sums so received by the guardian are not to be used for compensation for the guardian's services except as approved by order of the court or as determined by a duly appointed conservator other than the guardian.
 - (3) The guardian may not use funds from the child's estate for room and board that the guardian or the guardian's spouse have furnished to the child unless a charge for the service is approved by order of the court made upon notice to at least one of the child's next of kin, if notice is possible.
 - (4) A guardian may institute proceedings to compel the performance by any person of a duty to support the child or to pay sums for the welfare of the child.
 - c. To facilitate the child's education, social, or other activities.
 - d. To authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this consent for injury to the child resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented.

- e. A guardian shall file an annual report with the court regarding the exercise of powers and duties under this subsection.
- (1) The report must describe the status or condition of the child, including any change of residence and reasons for the change, any medical treatment received by or withheld from the child, the child's educational progress, any expenditure and income affecting the child, and any exercise of legal authority by the guardian affecting the child.
 - (2) The report must include changes that have occurred since the previous reporting period and an accounting of the child's estate.
 - (3) The guardian shall report whether the child continues to require a guardianship.
 - (4) The report must be filed with the court.
 - (5) The filing of the report does not constitute an adjudication or a determination of the merits of the report nor does the filing of the report constitute the court's approval of the report.
 - (6) The court shall review the report and a hearing may be set.
 - (7) The office of the state court administrator shall provide forms that may be used to fulfill reporting requirements. Any report must be similar in substance to the state court administrator's form.
 - (8) Copies of the guardian's annual report and of any other reports required by the court must be mailed to the child, if the child is age fourteen or older, the child's parents, unless the parents' rights have been terminated or the parents are deceased, and any interested persons designated by the court in its order.
 - (9) If a guardian fails to file a complete annual report as required by this subdivision, fails to file a report at other times as the court may direct, or fails to provide an accounting of an estate, the court, upon its own motion or upon petition of any interested person, may issue an order compelling the guardian to show cause why the guardian should not immediately make and file the report or account, or be found in contempt for failure to comply. A copy of the order to show cause must be provided to the child, if the child is age fourteen or older, the child's parents, unless the parents' rights have been terminated or the parents are deceased, any interested persons designated by the court in its order, and the juvenile court director.
- f. The guardian shall inform the court of any change in the child's residence within thirty days of the change, but must seek prior authorization of the court to establish or move the child's residence outside of the state.
- g. In determining what is in the child's best interest, the guardian shall take into account the child's preferences to the extent actually known or reasonably ascertainable by the guardian.
- h. To the extent reasonable, the guardian shall delegate to the child responsibilities for decisions affecting the child's well-being.

- i. The guardian may not delegate authority as a guardian under a power of attorney without prior approval from the court.

27-20.1-16. Procedure for modification, resignation, or termination of a guardianship.

1. A guardian may petition for permission to resign. A petition for permission to resign must include a request for appointment of a successor guardian unless continuation of the guardianship is no longer necessary. Resignation of a guardian does not terminate the guardianship unless specifically ordered by the court.
2. Any party to the proceeding in which the child's status was adjudicated, the director, the child, if fourteen or more years of age, or any interested person, may petition for removal or modification of a guardian on the grounds the removal or modification would be in the best interest of the child. A petition for removal or modification must include a request for appointment of a successor guardian unless continuation of the guardianship is no longer necessary.
3. Any party to the proceeding in which the child's status was adjudicated, the director, the child, if fourteen or more years of age, or any interested person, may petition for termination of the guardianship due to:
 - a. The child's death, adoption, marriage, or attainment of majority;
 - b. The withdrawal of the parent's consent; or
 - c. The basis for the guardianship no longer exists.
4. The person seeking modification, resignation, removal, or termination of the guardianship shall file a supporting affidavit with the petition demonstrating the basis for the petition, and serve the petition and affidavit on the child, if the child is age fourteen or older, the child's parents, unless the parents' rights have been terminated or the parents are deceased, and any interested persons designated by the court in its order. The petition must be reviewed by the court to determine whether to set an evidentiary hearing. If an insufficient showing has been made, the court shall issue an order denying the petition.
5. If, at any time in the proceeding, the court determines it is in the best interest of the child, the court may appoint a guardian ad litem.
6. If, at any time in the proceeding, the court determines the interests of the child are or may be inadequately represented, the court may appoint an attorney to represent the child.

27-20.1-17. Expiration and termination of guardianship of a child.

1. An order appointing or reappointing a guardian under this chapter is effective for up to one year unless the court, upon a finding of good cause, sets a different time frame. An order may not be effective for more than three years. At least sixty days before the expiration of the initial order of appointment or any following order of reappointment, the court shall request and consider information submitted by the guardian, the child, if fourteen years of age or older, the child's attorney, if any, the child's parents, and any interested persons regarding whether the need for a guardianship continues to exist. The court, at its discretion, may appoint a guardian ad litem in accordance with

section 27-20.1-08, before the hearing. The court shall hold a hearing on whether the guardianship should continue. Following the hearing and consideration of submitted information, the court may:

- a. Terminate the guardianship if shown by clear and convincing evidence that the circumstances that led to the guardianship no longer exist;
 - b. Reappoint the guardian for up to three years; or
 - c. Appoint a new guardian.
2. A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian, or upon the child's death, adoption, marriage, or attainment of majority, but termination does not affect the guardian's liability for prior acts or the guardian's obligation to account for funds and assets of the child. For cases arising under section 27-20-30.1, the age of majority is age twenty-one.
 3. The supreme court, by rule or order, shall provide for the regular review of guardianships in existence on August 1, 2019.

27-20.1-18. Appointment of emergency guardian of a child.

1. Upon petition by a person interested in the child's welfare, the court may appoint an emergency guardian if the court finds that compliance with the procedures of this chapter will likely result in substantial harm to the child's health, safety, or welfare. Immediately upon receipt of the petition for an emergency guardian, the court shall appoint a guardian ad litem to advocate for the best interests of the child.
2. An emergency guardian may be appointed without hearing or notice to the child, the child's parent or legal custodian, or the child's guardian ad litem only if the court finds from affidavit or other sworn testimony that the child will be substantially harmed before a hearing can be held. If the court appoints an emergency guardian without hearing or notice to the child, the child's parent or legal custodian, or the child's guardian ad litem, the child, the child's parent or legal custodian, and the child's guardian ad litem must be given notice of the emergency appointment by the petitioner within forty-eight hours after the emergency appointment. The court shall hold a hearing on the appropriateness of the emergency appointment within ninety-six hours after the emergency appointment or filing of the petition.
3. Reasonable notice, either oral or written, stating the time, place, and purpose of the hearing must be given to the child, if fourteen years of age or older, and, to the child's parents or legal custodian, if they can be found. If oral notice is provided, the petitioner must file an affidavit stating that oral notice including the time, place, and purpose of the hearing has been provided.
4. The court shall determine if there is probable cause to believe the emergency appointment is in the best interest of the child and one of the provisions of subsection 1 of section 27-20.1-11 is met.
5. If the emergency guardian is found to be appropriate, the court may order the emergency guardian remain in place for no more than sixty days from the date of the hearing. The court may extend the emergency order for up to six months.

6. A request for an emergency guardian may be included in a petition for appointment of a guardian of a child under section 27-20.1-05.

27-20.1-19. Attorney's fees.

If the court determines an action brought under section 30.1-27-07 or this chapter is frivolous, the court may award reasonable, actual, and statutory costs, including reasonable attorney's fees, incurred by or on behalf of the child.

27-20.1-20. Protective order.

1. At any stage of the proceedings, upon application of a party or on the court's own motion, the court may make an order restraining or otherwise controlling the conduct of an individual if the court finds the conduct:
 - a. Is or may be detrimental or harmful to the child; or
 - b. Will tend to defeat the execution of an order of disposition; and
2. Due notice of the application or motion and the grounds therefor and an opportunity to be heard have been given to the person against whom the order is directed.

27-20.1-21. Orders for evaluation.

1. The court may order a party or a proposed guardian to submit to a chemical dependency, parental capacity, mental health, domestic violence, anger management, or other relevant evaluation by a suitably licensed or certified examiner. The court may request other persons having regular contact with the child submit to a chemical dependency, parental capacity, mental health, domestic violence, anger management, or other relevant evaluation by a suitably licensed or certified examiner. Failure to submit to an evaluation will be taken into consideration by the court.
2. The order may be made only on motion for good cause by a party or guardian ad litem, or on the court's own motion, and on notice to all parties and the person to be evaluated. The order must:
 - a. Specify the type of evaluation and the type of professional or entity to perform the evaluation;
 - b. Include the deadline for performing the evaluation;
 - c. Include the date by which the evaluation must be filed with the court; and
 - d. Specify the party that must pay the costs of the evaluation. If the party is unable to pay the costs, the court may direct the costs to be paid, in whole, or in part, by the county. The court may direct the party to reimburse the county, in whole or in part, for the payment.
3. The evaluation must be in writing and must set out in detail the evaluator's findings, including diagnoses, conclusions, and the results of any tests. The evaluator must file a copy with the court.
4. The evaluation reports and any addendums are confidential. The public or the parties may not read or copy the evaluation reports or addendums unless the

court, in its discretion, gives permission. The guardian ad litem may read the evaluation reports and addendums but may not copy the evaluation reports and addendums unless the court, in its discretion, gives permission. A party, proposed guardian, or other person requested to submit to an evaluation by the court under this section is entitled to a copy of the report of evaluation and any addendum, upon request.

27-20.1-22. Confidentiality.

Except as provided by section 27-20-51, all files and records under this chapter are closed to the public and confidential.

SECTION 8. REPEAL. Sections 27-20-48.2, 27-20-48.3, and 27-20-48.4 of the North Dakota Century Code are repealed.

Approved April 11, 2019

Filed April 12, 2019