

# DOMESTIC RELATIONS AND PERSONS

## CHAPTER 140

### HOUSE BILL NO. 1533

(Representatives Boschee, Hanson, Ista, Klemin, Pyle, Roers Jones, Schneider)  
(Senator Braunberger)

AN ACT to create and enact a new chapter to title 14 of the North Dakota Century Code, relating to protecting survivors of domestic abuse from abusive litigation.

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

**SECTION 1.** A new chapter to title 14 of the North Dakota Century Code is created and enacted as follows:

##### Definitions.

1. "Abusive litigation" means litigation in which:
  - a. The parties have or had an intimate partner relationship or any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02;
  - b. The filing party has been found by a court to have committed an act of domestic violence or disorderly conduct against the opposing party pursuant to a court order entered under chapter 14-07.1, 14-09, or 12.1-32.2, or an equivalent ordinance from another state, provided the issuing court made a specific finding of domestic violence or disorderly conduct, or the filing party has a prior conviction relating to domestic violence against the opposing party under chapter 12.1-17;
  - c. There is intent on the part of the filing party to harass, intimidate, maintain contact with, or retaliate against the opposing party; and
  - d. At least one of the following is true:
    - (1) Claims, allegations, and other legal contentions made in the litigation are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;
    - (2) Allegations and other factual contentions made in the litigation lack evidentiary support;
    - (3) The actions comprising the basis of the litigation previously have been filed or litigated in one or more other courts or jurisdictions and have been disposed of unfavorably against the party filing, initiating, advancing, or continuing the litigation; or

- (4) The filing party has been sanctioned previously for filing, initiating, advancing, or continuing litigation found to be frivolous, vexatious, intransigent, or brought in bad faith.
2. "Filing party" means the party who has filed, initiated, advanced, or continued litigation.
  3. "Intimate partner" means a spouse, former spouse, an individual who has a child with a filing party regardless of whether the individual has been married to the filing party or lived with the filing party, or an individual who has or had a dating relationship with the filing party.
  4. "Litigation" means any motion, pleading, petition, or other court filing.
  5. "Opposing party" means the party against whom the filing party has filed, initiated, advanced, or continued litigation.

**Burden of proof - Dismissal - Entry of order restricting abusive litigation.**

1. If a court finds by a preponderance of the evidence any of the litigation pending before the court constitutes abusive litigation, the court shall dispose of the litigation with prejudice.
2. If the court finds abusive litigation, the court shall enter an order restricting abusive litigation. The order must:
  - a. Impose all costs of the abusive litigation against the filing party; and
  - b. Award the opposing party reasonable attorney's fees and costs associated with responding to the abusive litigation, including the cost of seeking the order restricting abusive litigation.

**Proceeding when abusive litigation is not present.**

If the court finds by a preponderance of the evidence any of the litigation pending before the court does not constitute abusive litigation, the court shall enter written findings to that effect and the portions of the litigation found not to be abusive may proceed.

**Rules - Authority.**

The supreme court may adopt rules to implement this chapter.

Approved March 22, 2023

Filed March 23, 2023

## CHAPTER 141

### HOUSE BILL NO. 1136

(Representatives Klemin, Karls, Meier, D. Ruby, Satrom, Steiner, Vetter)  
(Senators Dwyer, Erbele, Kannianen, Larson, Luick)

AN ACT to create and enact a new section to chapter 14-02.4 of the North Dakota Century Code, relating to the exercise of religion.

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

**SECTION 1.** A new section to chapter 14-02.4 of the North Dakota Century Code is created and enacted as follows:

##### **Exercise of religion.**

1. Notwithstanding any other provision of law, a state or local government entity may not:
  - a. Substantially burden a person's exercise of religion unless applying the burden to that person's exercise of religion in a particular situation is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling government interest;
  - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk; or
  - c. Treat religious conduct more restrictively than any comparable secular conduct because of alleged economic need or benefit.
2. A person claiming to be aggrieved by a violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

Approved March 30, 2023

Filed April 3, 2023

## CHAPTER 142

### HOUSE BILL NO. 1450

(Representatives Roers Jones, Cory, Dakane, McLeod, Meier, O'Brien, Schneider,  
Strinden, VanWinkle)  
(Senators Myrdal, K. Roers)

AN ACT to amend and reenact subsection 2 of section 14-02.4-03 of the North Dakota Century Code, relating to the definition of pregnancy in our discrimination laws.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 14-02.4-03 of the North Dakota Century Code is amended and reenacted as follows:

2. It is a discriminatory practice for an employer to fail or refuse to make reasonable accommodations for an otherwise qualified individual with a physical or mental disability, because that individual is pregnant, or because of that individual's religion. An employer is not required to provide an accommodation that would disrupt or interfere with the employer's normal business operations; threaten an individual's health or safety; contradict a business necessity of the employer; or impose an undue hardship on the employer, taking into consideration the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation. For purposes of this subsection, "pregnant" includes pregnancy, childbirth, and related medical conditions.

Approved March 15, 2023

Filed March 16, 2023

## CHAPTER 143

### HOUSE BILL NO. 1037

(Legislative Management)  
(Judiciary Committee)

AN ACT to amend and reenact section 14-05-24.1 of the North Dakota Century Code, relating to spousal support; and to provide for application.

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

**SECTION 1. AMENDMENT.** Section 14-05-24.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **14-05-24.1. Spousal support.**

1. As used in this section:
  - a. "Length of marriage" means from the date of the marriage until the service of a summons for an action for legal separation or divorce.
  - b. "Material change in circumstances" means a change that substantially affects the financial abilities or needs of the parties and which was not contemplated by the parties at the time of the original award.
2.  Taking into consideration the circumstances of the parties, the court may not award permanent spousal support. Upon consideration of the provisions of this section, the court may require one party to pay spousal support to the other party for a limited period of time in accordance with this section upon expressly finding:
  - a. The recipient lacks sufficient property or income or the property or income is insufficient to enable the recipient to provide for the recipient's reasonable needs, considering the marital standard of living; and
  - b. The payor has the ability to supply those means without undue economic hardship. The court may modify its spousal support orders.
3. In addition to any other factors the court considers relevant in determining the amount and duration of spousal support, the court shall consider:
  - a. The age of the parties;
  - b. The earning ability of each party;
  - c. The duration of the marriage;
  - d. The conduct of the parties during the marriage;
  - e. The station in life of each party;
  - f. The circumstances and necessities of each party;

- g. The health and physical condition of each party; and
- h. The financial circumstances of the parties as shown by the property owned at the time of the divorce, including the value of the property at the time of the divorce, the income-producing capacity of the property, and whether the property was acquired before or after the marriage.
4. After considering the factors in subsection 3, the court may award:
- a. Rehabilitative spousal support when it is possible to restore a spouse to independent economic status or to equitably divide the burden of the divorce by increasing that spouse's earning capacity.
- b. General term spousal support when a spouse is not capable of rehabilitation, self-support, or to minimize the burden of the divorce.
- c. Lump sum spousal support as additional marital property to a spouse or the court may otherwise adjust the distribution of the marital property and debt to eliminate the need for spousal support or to reduce the amount or the duration of the spousal support.
5. Except upon written findings by the court which require a deviation beyond the time limits of this section is necessary, spousal support terminates upon the following:

<u>Length of marriage</u>	<u>Duration of spousal support award as percentage of the number of months of the length of the marriage</u>
<u>Less than 5 years</u>	<u>Up to 50%</u>
<u>Between 5 and 10 years</u>	<u>Up to 60%</u>
<u>Between 10 and 15 years</u>	<u>Up to 70%</u>
<u>Between 15 and 20 years</u>	<u>Up to 80%</u>
<u>20 years or more</u>	<u>Duration agreed upon by parties or for a limited time as determined by the court.</u>

6. The court may modify its spousal support order, subject to the following limitations:
- a. If a material change in circumstances occurs during the rehabilitative period, rehabilitative spousal support may be modified.
- b. If a material change in circumstances occurs, general term spousal support may be modified.
7. Upon the filing of a judgment, the parties may not seek and the court may not order a modification of lump sum spousal support.

8. The parties may expressly preclude or limit the modification of spousal support through a written agreement that is part of the judgment for divorce.
9. Unless otherwise agreed to by the parties in writing, spousal support is terminated upon the remarriage or death of the spouse receiving support. The court may require reasonable security from the payor spouse in the event of the payor's death. Immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payor spouse at the last known address of the payor spouse.
- 3-10. Unless otherwise agreed to by the parties in writing, upon an order of the court based upon a preponderance of the evidence that the spouse receiving support has been habitually cohabiting with another individual in a relationship analogous to a marriage for one year or more, the court shall terminate spousal support.
4. Subsections 2 and 3 do not apply to rehabilitative spousal support.
11. There is a rebuttable presumption that spousal support terminates upon the payor's attaining full retirement age for social security purposes. The rebuttable presumption may be overcome if the court determines spousal support should continue based on the following factors:
  - a. The ages of the parties at the time of the marriage, the time of the entry of the spousal support award, and the time of the application for retirement;
  - b. The degree and duration of the economic dependency of the recipient upon the payor during the marriage;
  - c. Whether the recipient has foregone, relinquished, or otherwise sacrificed claims, rights, or property in exchange for a more substantial or longer spousal support award;
  - d. The duration or amount of spousal support already paid;
  - e. The health of the parties at the time of the retirement application;
  - f. Assets of the parties at the time of the retirement application;
  - g. Sources of income, both earned and unearned, of the parties, including whether the payor spouse intends to continue employment;
  - h. The ability of the recipient to have saved adequately for retirement; and
  - i. Any other factors the court deems relevant.

**SECTION 2. APPLICATION.** It is the intent of the sixty-eighth legislative assembly that this Act becomes effective on August 1, 2023, and applies to actions for divorce or legal separation filed on or after August 1, 2023.

Approved March 30, 2023

Filed April 3, 2023

## CHAPTER 144

### HOUSE BILL NO. 1268

(Representatives Ista, Cory, Hanson, Heinert, Klemin, M. Ruby, Schneider, Vetter)  
(Senators Braunberger, Larson, Lee, Sickler)

AN ACT to create and enact a new subsection to section 14-07.1-02 of the North Dakota Century Code, relating to the definition of domestic violence and stalking; to amend and reenact subsection 3 of section 14-07.1-02 of the North Dakota Century Code, relating to domestic violence protection orders; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Subsection 3 of section 14-07.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Service must be made upon the respondent at least five days ~~prior to~~before the hearing. Service of the hearing notice, for a protection order under this section or for an ex parte temporary protection order under section 14-07.1-03, must be attempted by personal service before service by publication under rule 4 of the North Dakota Rules of Civil Procedure may be attempted. If service cannot be made, or if additional time is required to complete service by publication, the court may set a new date.

**SECTION 2.** A new subsection to section 14-07.1-02 of the North Dakota Century Code is created and enacted as follows:

As used in this section and in section 14-07.1-03:

- a. "Domestic violence" has the meaning provided in section 14-07.1-01 and includes stalking.
- b. "Stalking" has the meaning provided for in the term "stalk" in section 12.1-17-07.1.

Approved April 7, 2023

Filed April 10, 2023

## CHAPTER 145

### HOUSE BILL NO. 1362

(Representatives Christensen, Bosch, Heilman, Kasper, Koppelman, Lefor, Meier, M. Ruby)  
(Senators Boehm, Larsen, Paulson, Wobbema)

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to recognizing a parent's interest in their child's upbringing.

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

**SECTION 1.** A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

##### **Parent's interest in child's upbringing.**

1. As used in this section, a "parent" means parent or legal guardian not including a school or other institution serving in loco parentis.
2. It is the public policy of the state that:
  - a. A parent retains the right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;
  - b. A child has the right to protection from abuse and neglect; and
  - c. The state retains a compelling interest in preventing, assessing, investigating, addressing, and prosecuting abuse and neglect.
3. This section may not be interpreted to supersede chapters 27-20.1, 27-20.2, 27-20.3, and 27-20.4.

Approved May 6, 2023

Filed May 9, 2023

## CHAPTER 146

### HOUSE BILL NO. 1113

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

AN ACT to amend and reenact sections 14-09-06.3 and 14-09-06.4 of the North Dakota Century Code, relating to parenting investigators and guardians ad litem.

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

**SECTION 1. AMENDMENT.** Section 14-09-06.3 of the North Dakota Century Code is amended and reenacted as follows:

#### **14-09-06.3. CustodyParenting investigations and reports - Costs.**

1. In contested proceedings dealing with parental rights and responsibilities the court, upon the request of either party, or, upon its own motion, may appoint a parenting investigator and order an investigation and report concerning parenting rights and responsibilities regarding the child. The court shall designate a person or agency responsible for making the investigation and report, which designees may include the human service zone, public health officer, school officials, and any other public agency or private practitioner the court deems qualified to make the investigation. The supreme court shall adopt rules establishing the minimum qualifications of a parenting investigator and maintain and make available to the public a roster of individuals eligible to serve as a parenting investigator. The roster must include each individual's name, address, and telephone number. The parenting investigator appointed must be on the public roster of those eligible to serve as a parenting investigator.
2. The investigator may consult any person who may have information about the child and any potential arrangements for parenting rights and responsibilities, and upon order of the court may refer the child to any professional personnel for diagnosis.
3. ~~The court~~ parenting investigator shall mail ~~file~~ the investigator's report to ~~with the court and serve the report on~~ counsel and to any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.
4. ~~The court shall enter an order for the costs of any such investigation against either or both parties, except that ifl the parties are indigent, the court shall enter an order stating the expenses of any such investigation must be borne by the county where the child resided at the time the action was commenced or if a modification of parental rights and responsibilities, at the time the motion to modify is served.~~

5. Following the decision by the court regarding parenting rights and responsibilities, the parenting investigator must be discharged of the investigator's duties as investigator.
6. A parenting investigator appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the parenting investigator is a disputable presumption.

**SECTION 2. AMENDMENT.** Section 14-09-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**14-09-06.4. Appointment of attorney guardian ad litem ~~or investigator~~ for child in proceedings involving parental rights and responsibilities - Immunity.**

1. In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor child, and in any action when the parenting rights and responsibilities concerning the child is contested, ~~either party to the action may petition the court for the appointment of a~~ the court, upon motion of the court or by motion or agreement of the parties, may appoint an attorney guardian ad litem to represent the child concerning parenting rights and responsibilities. The court may appoint a guardian ad litem or investigator on its own motion.
2. If appointed, ~~an~~ an attorney guardian ad litem shall serve as an advocate of the child's best interests. ~~If appointed, the investigator shall provide those services as prescribed by the supreme court.~~
3. The court may direct either or both parties to pay the attorney guardian ad litem ~~or investigator~~ fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the county where the child resided at the time the action was commenced. The court may direct either or both parties to reimburse the county, in whole or in part, for such payment. ~~Any~~
4. An attorney guardian ad litem ~~or investigator~~ appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the attorney guardian ad litem ~~or investigator~~ is a disputable presumption.

Approved March 27, 2023

Filed March 28, 2023

## CHAPTER 147

### HOUSE BILL NO. 1492

(Representatives Ista, Cory, Mitskog, Mock, O'Brien, Roers Jones, M. Ruby, Schauer, Schneider)  
(Senators Hogan, Kreun, Lee)

AN ACT to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to defining mental injury for the crime of child abuse; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 14-09-22 of the North Dakota Century Code is amended and reenacted as follows:

##### **14-09-22. Abuse of child - Mandatory sentence - Penalty.**

1. Except as provided in subsection 2 or 3, a parent, adult family or household member, guardian, or other custodian of any child, who willfully inflicts or allows to be inflicted upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 is guilty of a class C felony except if the victim of an offense under this section is under the age of six years in which case the offense is a class B felony. For purposes of this subsection, "mental injury" means an observable and substantial, nontransitory impairment to a child's mental or psychological ability to function within a normal range of performance or behavior.
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under this section is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.
3. A person who commits an offense under this section is guilty of a class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years in which case the offense is a class A felony.
4. A person who has pled guilty or nolo contendere to, or has been found guilty of an offense under this section must be sentenced to a minimum of one year imprisonment.
5. For any person who pleads guilty or is convicted of an offense under this section, the court shall include in the sentence an order for the person to complete a parental capacity evaluation, mental health evaluation, and anger management assessment, and to complete treatment recommendations as ordered by the court as a condition of probation.

Approved March 27, 2023

Filed March 28, 2023

## CHAPTER 148

### SENATE BILL NO. 2080

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact subsections 2, 4, and 5 of section 14-15-11 and section 27-20.3-24 of the North Dakota Century Code, relating to a licensed child-placing agency investigation and adoptive child placement; to provide a statement of legislative intent; to provide for a legislative management study; to provide for a legislative management report; to provide a contingent effective date; to provide an effective date; and to declare an emergency.

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

<sup>84</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether ~~the adoptive home is a suitable home for the minor and whether the~~

a. The proposed adoption is in the best interest of the minor; and

b. The adoptive home is suitable for the minor. The licensed child-placing agency shall obtain and consider the foster care assessment of an applicant who is also a licensed, certified, or approved family foster home for children in the manner prescribed by the department. An adoptive home is presumed suitable if, in the manner prescribed by the department, the petitioner is continuously licensed, certified, or approved as a family foster home for children under chapter 50-11 to furnish foster care for children for more than one year without a correction order, fiscal sanction, or license revocation proceeding, unless the custodial agency reasonably believes the use of the foster care assessment or the licensed, certified, or approved family foster home for children is not in the best interest of the minor.

<sup>85</sup> **SECTION 2. AMENDMENT.** Subsection 4 of section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

4. The report of the investigation must contain a:

a. A review of the child's history; a

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<sup>84</sup> Section 14-15-11 was also amended by section 2 of Senate Bill No. 2080, chapter 148, and section 3 of Senate Bill No. 2080, chapter 148.

<sup>85</sup> Section 14-15-11 was also amended by section 1 of Senate Bill No. 2080, chapter 148, and section 3 of Senate Bill No. 2080, chapter 148.

- b. A preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; ~~and a~~
- c. A postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption;
- d. The petitioner's foster care assessment to demonstrate the presumed suitability of the adoptive home if a foster care assessment was considered in the investigation under subsection 2 of this section; and any
- e. Any other information the court requires regarding the petitioner or the minor.

<sup>86</sup> **SECTION 3. AMENDMENT.** Subsection 5 of section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a court-appointed legal guardian or a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.

**SECTION 4. AMENDMENT.** Section 27-20.3-24 of the North Dakota Century Code is amended and reenacted as follows:

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

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
  - a. Commit the child to the custody of the human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence of such an agreement, in a foster home;
  - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
  - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the

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<sup>86</sup> Section 14-15-11 was also amended by section 1 of Senate Bill No. 2080, chapter 148, and section 2 of Senate Bill No. 2080, chapter 148.

child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.

4. Unless sections 27-20.2-15 and 27-20.3-19 or the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.] applies, and if after conducting a diligent and exhaustive search, a fit and willing relative interested in adoption is not located, a human service zone director or licensed child-placing agency that places a child for adoption under subdivision a of subsection 1, shall consider granting the adoptive placement to a licensed, certified, or approved family foster home for children provider interested in adopting the child, if the licensed, certified, or approved family foster home for children provider provided foster care to the child:
  - a. For one year or longer leading up to the termination of parental rights; and
  - b. Without a correction order, fiscal sanction, or license revocation proceeding.
5. Subsection 4 does not apply if considering the adoptive placement to the licensed, certified, or approved family foster home for children provider would result in siblings who are placed for adoption being placed in separate homes.

**SECTION 5. AMENDMENT.** Section 27-20.3-24 of the North Dakota Century Code is amended and reenacted as follows:

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

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall:
  - a. Commit the child to the custody of the human service zone director or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence of such an agreement, in a foster home;
  - b. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
  - c. Establish some other planned permanent living arrangement.
2. The custodian has the rights of a legal custodian and authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.
3. If the child is not placed for adoption within twelve months after the date of the order and a legal guardianship or other planned permanent living arrangement for the child has not been established by a court of competent jurisdiction, the child must be returned to the court issuing the original termination order for entry of further orders for the care, custody, and control of the child.
4. Unless chapter 27-19.1 or the federal Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.] applies, and if after conducting a diligent and exhaustive search, a fit and willing relative interested in adoption is not located, a human service zone director or licensed child-placing agency that places a child for adoption under subdivision a of subsection 1, shall consider granting the adoptive placement to a licensed, certified, or approved family

foster home for children provider interested in adopting the child, if the licensed, certified, or approved family foster home for children provider provided foster care to the child:

- a. For one year or longer leading up to the termination of parental rights; and
  - b. Without a correction order, fiscal sanction, or license revocation proceeding.
5. Subsection 4 does not apply if considering the adoptive placement to the licensed, certified, or approved family foster home for children provider would result in siblings who are placed for adoption being placed in separate homes.

## **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - CHILD WELFARE ISSUES.**

1. During the 2023-24 interim, the legislative management shall consider studying the laws and practices of the child welfare system. The study must include a review of the:
  - a. Implementation of the revisions in juvenile court procedures and the new model of practice;
  - b. Laws, administrative rules, and practices of the foster care and adoption systems;
  - c. The timeliness of termination of parental rights;
  - d. Timeliness of permanency; and
  - e. Availability of resources to support children and families experiencing out-of-home placement or risk of out-of-home placement.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 7. LEGISLATIVE INTENT - CHILD WELFARE ISSUES - LEGISLATIVE MANAGEMENT REPORT.** It is the intent of the sixty-eighth legislative assembly that the department of health and human services conduct a foster care and adoption child welfare redesign. The redesign must include a review of methods to streamline adoptions by licensed, certified, or approved family foster home for children providers and identify a fit and willing relative interested in adoption earlier in the process. The department shall report its findings and recommendations to the legislative management by January 1, 2024, and every six months after the initial report during the 2023-25 biennium.

**SECTION 8. CONTINGENT EFFECTIVE DATE.** Section 5 of this Act becomes effective on October 1, 2024, if chapter 27-19.1 as created by section 1 of House Bill No. 1536 is approved by the sixty-eighth legislative assembly.

**SECTION 9. EFFECTIVE DATE.** Sections 1, 2, and 4 become effective on October 1, 2024.

**SECTION 10. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure.

Approved May 8, 2023

Filed May 9, 2023