

Sixty-ninth  
Legislative Assembly  
of North Dakota

**FIRST ENGROSSMENT  
with Senate Amendments**

**ENGROSSED HOUSE BILL NO. 1556**

Introduced by

Representatives Stemen, Beltz, Hagert, O'Brien, Ostlie, Dockter, Nelson

Senators Lee, Roers, Davison

1 A BILL for an Act to amend and reenact subsection 5 of section 27-20.3-01, and sections  
2 27-20.3-15 and 27-20.3-21 of the North Dakota Century Code, relating to a child in need of  
3 protection and termination of parental rights; to create a workgroup under the children's cabinet  
4 to study out-of-home placement or treatment of children with behavioral health issues; to  
5 provide for a report; to provide an expiration date; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Subsection 5 of section 27-20.3-01 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9 5. "Child in need of protection" means a child who:

- 10 a. Is without proper parental care or control, subsistence, education as required by  
11 law, or other care or control necessary for the child's physical, mental, or  
12 emotional health, or morals, and the need for services or protection is not due  
13 primarily to the lack of financial means of the child's parents, guardian, or other  
14 custodian;
- 15 b. Has been placed for care or adoption in violation of law;
- 16 c. Has been abandoned by the child's parents, guardian, or other custodian;
- 17 d. Is without proper parental care, control, or education as required by law, or other  
18 care and control necessary for the child's well-being because of the physical,  
19 mental, emotional, or other illness or disability of the child's parent or parents,  
20 and that such lack of care is not due to a willful act of commission or act of  
21 omission by the child's parents, and care is requested by a parent;

- 1 e. Is in need of treatment and whose parents, guardian, or other custodian have  
2 refused to participate in treatment as ordered by the juvenile court;
- 3 f. Was subject to prenatal exposure to chronic or severe use of alcohol or any  
4 controlled substance as defined in chapter 19-03.1 in a manner not lawfully  
5 prescribed by a practitioner;
- 6 g. Is present in an environment subjecting the child to exposure to a controlled  
7 substance, chemical substance, or drug paraphernalia as prohibited by section  
8 19-03.1-22.2; ~~or~~
- 9 h. Is a victim of human trafficking as defined in title 12.1; or
- 10 i. Is in need of care and treatment and:
- 11 (1) Has been diagnosed with a severe mental health condition or behavioral  
12 health disorder by a licensed child psychologist or psychiatrist;
- 13 (2) Has committed an act of a violent or sexual nature against another family  
14 member living in the household, which if committed by an adult would be  
15 considered a crime under the laws of this state, and if the criteria under  
16 section 27-20.4-11 are met, has at minimum been considered for informal  
17 adjustment; and
- 18 (3) Whose parent is unable to provide proper control of the child and is in fear  
19 for the safety of a family member living in the same household as the child.

20 **SECTION 2. AMENDMENT.** Section 27-20.3-15 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **27-20.3-15. Disposition of a child in need of protection.**

- 23 1. If a child is found to be a child in need of protection, the court may make any of the  
24 following orders of disposition best suited to the protection of the child or family and  
25 the physical, mental, and moral welfare of the child:
- 26 a. Permit the child to reside with the child's parents, guardian, or other custodian,  
27 subject to conditions and limitations as the court prescribes, including supervision  
28 as directed by the court for the protection of the child.
- 29 b. Subject to conditions and limitations as the court prescribes, transfer temporary  
30 legal custody to any of the following:

- 1                   (1) An agency or other private organization licensed or otherwise authorized by  
2                   law to receive and provide care for the child.
- 3                   (2) The director of the human service zone to receive and provide care for the  
4                   child.
- 5                   c. Require the child or parents, guardian, or other custodian to participate in  
6                   treatment.
- 7                   d. Appoint a fit and willing relative or other appropriate individual as the child's legal  
8                   guardian under section 27-20.1-11.
- 9                   e. In cases in which a compelling reason has been shown that it would not be in the  
10                  child's best interests to return home, to have parental rights terminated, to be  
11                  placed for adoption, to be placed with a fit and willing relative, or to be placed  
12                  with a legal guardian, establish, by order, some other planned permanent living  
13                  arrangement.
- 14                  2. Without a compelling reason to the contrary, a court order that transfers the child from  
15                  the current protective placement to a parent or other biological family must provide a  
16                  reasonable period of time to facilitate a beneficial transition for the child and other  
17                  parties involved.
- 18                  3. A child in need of protection may not be placed in a residential facility that houses  
19                  delinquent children.

20                  **SECTION 3. AMENDMENT.** Section 27-20.3-21 of the North Dakota Century Code is  
21                  amended and reenacted as follows:

22                  **27-20.3-21. Petition for termination of parental rights.**

- 23                  1. As used in this section:
- 24                  a. "A finding that the child has been subjected to child abuse or neglect" means:
- 25                         (1) A finding of a child in need of protection made under this chapter, except as  
26                         provided in subdivision i of subsection 5 of section 27-20.3-01; or
- 27                         (2) A conviction of a person, responsible for a child's welfare, for conduct  
28                         involving the child, under chapter 12.1-16 or sections 12.1-17-01 through  
29                         12.1-17-04 or 12.1-20-01 through 12.1-20-08.
- 30                  b. "Compelling reason" means a recorded statement that reflects consideration of:
- 31                         (1) The child's age;

- 1                   (2) The portion of the child's life spent living in the household of a parent of the  
2                   child;
- 3                   (3) The availability of an adoptive home suitable to the child's needs;
- 4                   (4) Whether the child has special needs; and
- 5                   (5) The expressed wishes of a child age ten or older.
- 6                   c. "Department" means the department of health and human services.
- 7                   d. "Human service zone" means a county or consolidated group of counties  
8                   administering human services within a designated area in accordance with an  
9                   agreement or plan approved by the department.
- 10                  2. A petition for termination of parental rights must be prepared, filed, and served upon  
11                  the parties by the state's attorney. A petition may also be prepared by any other  
12                  person that is not the court, including a law enforcement officer, who has knowledge of  
13                  the facts alleged or is informed and believes that they are true. A petition prepared by  
14                  any person other than a state's attorney may not be filed unless the director or the  
15                  court has determined the filing of the petition is in the best interest of the public and  
16                  the child.
- 17                  3. Except as provided in subsection 4, a petition for termination of parental rights must be  
18                  filed:
- 19                  a. If the child has been in foster care, in the custody of the department, human  
20                  service zone, or, in cases arising out of an adjudication by the court of a child in a  
21                  delinquency case, the division of juvenile services, for at least four hundred fifty  
22                  out of the previous six hundred sixty nights;
- 23                  b. Within sixty days after the court has found the child to be an abandoned infant; or
- 24                  c. Within sixty days after the court has convicted the child's parent of one of the  
25                  following crimes, or of an offense under the laws of another jurisdiction which  
26                  requires proof of substantially similar elements:
- 27                          (1) A violation of section 12.1-16-01, 12.1-16-02, or 12.1-16-03, or subsection 1  
28                          of section 14-09-22 in which the victim is another child of the parent;
- 29                          (2) Aiding, abetting, attempting, conspiring, or soliciting a violation of section  
30                          12.1-16-01, 12.1-16-02, or 12.1-16-03 in which the victim is a child of the  
31                          parent; or

- 1                   (3) A violation of section 12.1-17-02 in which the victim is a child of the parent  
2                   and has suffered serious bodily injury.
- 3       4. A petition for termination of parental rights need not be filed if:
- 4           a. The child is being cared for by a relative approved by the human service zone;
- 5           b. The human service zone has documented in the case plan a compelling reason  
6           for determining that filing such a petition would not be in the child's best interests  
7           and has notified the court that the documentation is available for review by the  
8           court; or
- 9           c. The human service zone has determined:
- 10           (1) Reasonable efforts to preserve and reunify the family are required under  
11           section 27-20.3-26 to be made with respect to the child;
- 12           (2) The case plan provides such services are necessary for the safe return of  
13           the child to the child's home; and
- 14           (3) Such services have not been provided consistent with time periods  
15           described in the case plan.
- 16       5. For purposes of subsection 3, a child in foster care entered foster care on the earlier  
17       of:
- 18           a. The date of the court's order if the court:
- 19           (1) Made a finding that the child has been subjected to child abuse or neglect or  
20           the child is in need of protection under subdivision i of subsection 5 of  
21           section 27-20.3-01;
- 22           (2) Determined that it is unsafe or contrary to the welfare of the child to remain  
23           in the home; and
- 24           (3) Granted custody of the child to the human service zone or, in cases arising  
25           out of an adjudication by the court that a child is in need of services, the  
26           division of juvenile services; or
- 27           b. The date that is sixty days after:
- 28           (1) The date of a hearing under section 27-20.3-10 which results in maintaining  
29           a child in shelter care;
- 30           (2) The date of an order in a dispositional hearing under which a child is placed  
31           in foster care; or

1                   (3) The date a child is placed in foster care voluntarily and with the consent of  
2                   the child's parent.

3       6. For purposes of subsection 3, a child leaves foster care at the time:

4       a. The court enters an order:

5                   (1) Denying a petition to grant care, custody, and control of the child to the  
6                   human service zone or the division of juvenile services;

7                   (2) Terminating an order that granted custody of the child to the human service  
8                   zone or the division of juvenile services; or

9                   (3) Appointing a legal guardian under chapter 27-20.1;

10       b. The court order under which the child entered foster care ends by operation of  
11       law;

12       c. The child is placed in a parental home by the court or a legal custodian other  
13       than the division of juvenile services and the legal custodian lacks authority to  
14       remove the child without further order of the court; or

15       d. The child is placed in a parental home by the division of juvenile services.

16       7. For purposes of subsection 3, a child is not in foster care on any night during which  
17       the child is:

18       a. On a trial home visit;

19       b. Receiving services at the youth correctional center pursuant to an adjudication of  
20       delinquency; or

21       c. Absent without leave from the place in which the child was receiving foster care.

22                   **SECTION 4. CHILDREN'S CABINET - WORKGROUP - OUT-OF-HOME PLACEMENT**  
23                   **OR TREATMENT OF CHILDREN WITH BEHAVIORAL HEALTH ISSUES - REPORT.**

24       1. During the 2025-26 interim, the children's cabinet shall establish a workgroup to study  
25       the out-of-home placement or treatment of children with serious behavioral health  
26       issues. The study must include consideration of children who also are involved in  
27       juvenile court proceedings due to criminal activity.

28       2. The workgroup shall develop and implement a system of care for children with serious  
29       behavioral health issues, who may be involved in juvenile court proceedings due to  
30       criminal activity, and who are in need of out-of-home placement or treatment.

1           3.    The workgroup must be led by a consultant with expertise in navigating and managing  
2           the intersecting systems involved in the out-of-home placement and treatment  
3           processes for children with serious behavioral health issues and children involved in  
4           juvenile court proceedings due to criminal activity.

5           4.    The workgroup shall provide bimonthly reports to the children's cabinet on the  
6           assessment of needs, resources, challenges, options, and solutions.

7           **SECTION 5. EXPIRATION DATE.** Sections 1, 2, and 3 of this Act are effective through  
8           July 31, 2027, and after that date are ineffective.

9           **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.