

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 216

S. B. No. 216

(Longmire, Reichert, Murphy, Garaas,
(Lips, Brooks, Harris, Gefreh)

FEES FOR TRANSCRIPTS

AN ACT

To amend and reenact section 27-06-08 of the North Dakota Century Code, relating to fees for transcripts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 27-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-08. Fees for Transcripts.) For the preparation of a transcript, a court reporter shall be entitled to receive compensation at the rate of twenty cents for each one hundred words thereof. Such compensation shall be paid by the party requesting the transcript or by the county chargeable with the costs of the action, when the transcript is ordered prepared, by the judge, at such county's expense. If four additional copies are ordered at the same time by the same party, such court reporter shall be entitled to receive twelve cents per hundred words for such additional copies.

Approved March 14, 1961.

CHAPTER 217

H. B. No. 615

(Alme, Anderson of McHenry, Knudsen of LaMoure, Idso, Backes,
(Bloom, Loftesnes)

FEES AND MILEAGE OF JURORS AND BAILIFFS

AN ACT

To amend and reenact sections 27-06-09, 27-08-19 and 27-09-05 of the North Dakota Century Code, relating to the fees and mileage paid to jurors and bailiffs.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 27-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-05. Fees and Mileage for Jurors.) A juror shall receive:

1. Eight dollars, payable by the county, for each day's attendance in district or county court as a regular or special juror;
2. Four dollars for each day's attendance as a juror in justice court;
3. Four dollars, payable by the county, for each day's attendance at a coroner's inquest; and
4. Traveling expenses, payable by the county, of ten cents per mile for each mile actually and necessarily traveled each way.

§ 2. Amendment.) Section 27-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-09. Bailiffs of District Courts—Appointment, Salary.) The district court at each term thereof shall appoint a sufficient number of competent bailiffs to wait on the jury and the court during the term. Such bailiffs shall be allowed for their services eight dollars per day to be paid by the county.

§ 3. Amendment.) Section 27-08-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-19. Bailiffs of County Courts Having Increased Jurisdiction—Appointment, Terms, Powers, Compensation.) The judge of a county court having increased jurisdiction may appoint one or more competent persons as bailiffs of the court. Such bailiffs shall hold office at the pleasure of the judge, shall have the same powers as a constable, and shall receive for their services eight dollars per day.

Approved March 15, 1961.

CHAPTER 218

S. B. No. 220
(Holand)

JURORS, NOTICE

AN ACT

To amend and reenact sections 27-09-12 and 27-09-16 of the North Dakota Century Code, relating to selection of persons qualified to act as jurors and to require notice by mail be sent to each person so selected.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 27-09-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-12. Selecting New Names of Persons Qualified to Act as Jurors — Ground for Challenge.) A list of two hundred names of persons qualified to act as jurors shall be kept in each county. After each jury term for which a jury was empaneled and sworn to try a case, the clerk of the district court shall make a requisition upon the county commissioners for the furnishing of as many names as were persons selected and examined or sworn to try a case at such jury term. The county commissioners shall remove from the list the name of any person known to be dead, to be an invalid, or to have lost his residence from that county. The board of county commissioners shall then proceed to apportion new names to the jury list in the manner provided for by law for the selecting of the original list except the posting of notices shall not be required and the drawing of new names may be done by the appropriate body at its next regular meeting. A challenge for cause may be made against any person who has served as a juror within five years next preceding a jury term and was not selected as juror at such jury term in accordance with the provisions of this section.

§ 2. **Amendment.)** Section 27-09-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-16. Issuance of Venire for Grand or Petit Jurors.) The clerk of the district court, after the drawing of the names of the persons to be summoned as jurors, and on the day on which the drawing is held, shall issue a venire or venires, as the case may be, directed to the proper county officer, commanding him to summon the persons whose names are drawn

to appear before the district court at the hour, day, and place designated in the order of the judge for the summoning of a jury. A separate venire shall be issued for the grand jury when such jury is ordered summoned. Such clerk, when issuing such venire, shall ascertain and insert therein the post-office addresses of the jurors to be summoned. Immediately after the drawing of names of persons to be summoned as jurors, the clerk of the district court shall send by mail to each person whose name was drawn a list of all names so drawn and a copy of sections 27-09-02, 27-09-03, and 27-09-04 of this code relating to persons not qualified or compelled to serve as jurors.

Approved March 4, 1961.

CHAPTER 219

H. B. No. 814
(Haugland, Poling, Fossum,)
(Powers, Kelly)

CHILD PLACEMENT, RELIGIOUS FAITH

AN ACT

To amend and reenact section 27-16-22 of the North Dakota Century Code, relating to the placement of children in a family or institution of the same religious faith as that of the parents of said child.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 27-16-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-22. Religious Belief.) In the placement by such court under the provisions of this chapter due regard shall be given to the religious faith held by the parent or parents of the child and so far as is practicable the child shall be placed with a family or institution holding or representing the same religious faith as that held by the parent or parents of said child.

Approved February 28, 1961.

CHAPTER 220

H. B. No. 809

(Haugland, Poling, Fossum, Powers)

HEARING AND SERVICE OF NOTICE IN JUVENILE COURT

AN ACT

To amend and reenact section 27-16-35 of the North Dakota Century Code, relating to hearing and service of notice thereon in juvenile court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 27-16-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-35. Hearing and Service of Notice Thereon.) Unless the petition, initiated pursuant to section 27-16-12, shall pray for the termination of parental rights with reference to the child, the transfer of the permanent care, control, and custody of the child and the termination of such parental rights shall be made only after a special hearing before the court. The court shall cause notice of the time, place, and purpose of such hearing to be served within or without the state on the parents or surviving parent or the father of an illegitimate child who has acknowledged paternity or against whom paternity has been adjudicated and who has not disclaimed in writing all parental rights with reference to the child, upon any general guardian or guardian ad litem of the child, and on the director of the division of child welfare of the public welfare board at least ten days prior to the date of the hearing. When it appears to the satisfaction of the court that personal service cannot be made upon any respondent, then service as to such respondent shall be made by registered or certified mail or by publication of the notice of hearing in a qualified newspaper once a week for three consecutive weeks prior to the date of the hearing as may be directed by the court.

Approved March 3, 1961.

CHAPTER 221

H. B. No. 815

(Haugland, Poling, Fossum, Powers, Kelly)

PARENTAL RIGHTS

AN ACT

To amend and reenact section 27-16-36 of the North Dakota Century Code, relating to the termination of parental rights upon petition of parent and notice of hearing such petition.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 27-16-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-36. Termination of Parental Rights Upon Petition of Parent—Notice and Hearing.) The parent of any child, whether natural or adoptive, may petition the juvenile court of the county in which the parent resides or in which the child is born or is found, for the termination of all parental rights with reference to the child. Upon the filing of the petition the court shall fix a time and place for hearing the petition and shall cause notice of the time, place and purpose of the hearing to be given to the director of the division of child welfare of the public welfare board at least ten days prior to the date of the hearing. An acknowledged, adjudicated, or lawful parent, including the mother of an illegitimate child, who has not disclaimed in writing all parental rights with reference to the child, if not the petitioner, shall be named as a respondent and served with notice of the hearing in the manner prescribed by section 27-16-35. Upon the hearing and for good cause shown, the court may terminate all parental rights with reference to the child and transfer the care, custody and control of the child to the director of the division of child welfare of the public welfare board, or to a licensed child-placing agency, or to some suitable adult person including a respondent parent as the court may direct.

Approved March 3, 1961.

CHAPTER 222

S. B. No. 181

(Longmire, Reichert, Murphy, Garaas)

RETIREMENT, SUPREME AND DISTRICT COURT JUDGES

AN ACT

To amend and reenact section 27-17-01 of the North Dakota Century Code, relating to retirement of supreme court judges and district court judges.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 27-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-17-01. Retirement of Supreme Court Judges and District Court Judges.)

1. Every judge of the supreme court or of the district court, including one who has served or shall have served in either or both capacities, shall, at the time he ceases to be such judge and regardless of his age at that time and without further payment by him into the judicial retirement fund, acquire a vested right to the judicial retirement salary herein provided for, payable upon application therefor at any time after he has attained any of the retirement ages with years of service, as follows:

65 and 20 years of service, or

66 and 18 years of service, or

67 and 16 years of service, or

68 and 14 years of service, or

69 and 12 years of service, or

70 and 10 years of service; provided however that any judge of the supreme court or district court who is appointed or elected to such court from and after July 1, 1960, who has become eligible for retirement hereunder but fails to make application therefor prior to his attaining the age of seventy-three years, shall automatically waive all retirement benefits hereunder and shall receive a return of only such moneys as have been retained by the state of North Dakota as a judicial retirement assessment, upon the salary of such judge.

2. If such judge shall have served fewer than the years of service above required for any given retirement age, he shall be entitled to receive judicial retirement salary only in the proportion that his years of service bear to the years of service otherwise required for retirement at such age.

3. The amount of judicial retirement salary payable to a retired judge under subsection 1, of this section shall be equal to fifty percent of the annual salary payable from time to time to judges of the classification the retired judge last had prior to making his application for judicial retirement salary, but in no event shall his judicial retirement salary be computed upon a judicial salary less than the one he last received while in office.

4. The judicial retirement salary payable under this section shall be paid to the retired judge during the remainder of his natural life and shall be paid by the state auditor, within thirty days after receiving application therefor, in the same manner as salaries are paid to judges of the district court and judges of the supreme court, except that judicial retirement salaries shall not be subject to judicial retirement assessment.

5. In lieu of receiving the judicial retirement salary otherwise payable under this chapter, the judge, at any time after having attained retirement age, may irrevocably elect to receive judicial retirement salary according to one of the following optional modes of payment:

- a. First Option. Three-fourths of his judicial retirement salary payable to him alone until he dies and thereafter one-half of such amount payable to his widow upon her attaining 62 years of age and until she remarries or until she dies.
- b. Second Option. Two-thirds of his judicial retirement salary payable to him alone until he dies and thereafter a like amount payable to his widow upon her attaining 62 years of age and until she remarries or until she dies.
- c. Third Option. One-half of his judicial retirement salary payable to him until he dies and a like amount payable to his wife upon her attaining 62 years of age and so long as she continues to be his wife or unremarried widow.

The election of one of the foregoing optional modes of payment shall be made in the application for payment of judicial retirement salary, or by written declaration of such election, signed by the judge and delivered to the state auditor. In the event the judge shall have elected an optional mode of payment and dies without having made application for judicial retirement salary, the judicial retirement salary payable to his widow according to his option shall be payable to her in the same manner as if he had made application for judicial retirement salary. In the event that a judge entitled to retirement pay shall die without having elected an optional mode of payment, his widow shall be entitled to payments as provided by the first option as set forth in subsection 5a. of this Act.

Judicial retirement salary payable according to one of the foregoing optional modes of payment shall be paid in like manner as the full judicial retirement salary is paid.

Approved March 15, 1961.

CHAPTER 223

H. B. No. 613
(Stockman)

ESTABLISHMENT OF COUNTY JUSTICE

AN ACT

To amend and reenact section 27-18-01 of the North Dakota Century Code, relating to the establishment of the office of county justice in counties other than counties which have a county court of increased jurisdiction.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 27-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-18-01. Office of County Justice — When Created — How Filled.) The office of county justice may be created by resolution of the board of county commissioners in any county, except in counties maintaining county courts of increased jurisdiction. The holder of such office shall be a qualified person and shall be elected by the electors of the county, or counties, for which he serves, in the same manner as other elective county offices. In the event the office of county justice, when created, is not filled by election, the board of county commissioners shall have the power to appoint a qualified person to said office.

Approved March 2, 1961.

CHAPTER 224

S. B. No. 123

(Bopp, Kamrath, Yunker, Reichert)

COUNTY JUSTICE, APPOINTMENT, NUMBER

AN ACT

To create and enact section 27-18-06 and to amend and reenact section 11-10-02 of the North Dakota Century Code, relating to the office of county justice.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Section 27-18-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-18-06. Appointment of County Justice Under Certain Circumstances.) If the board of county commissioners in any county shall determine that no person possessing the qualifications required of a county justice by section 27-18-02 will accept such position or is available within said county and that the election or appointment of a person possessing such qualifications from another county is not feasible because of distance, inaccessibility, or other factors, the board of county commissioners may submit the names of not less than three qualified electors of the county, who need not possess the qualifications required by section 27-18-02, whom said commissioners deem qualified to perform the duties of a county justice, to the senior judge of the district court in and for such county. The district judge may appoint not more than two of the persons from the list submitted to him to serve as county justice. In the event the district judge shall determine that two or more of the persons whose names are submitted are not suitable or qualified for appointment, the county commissioners upon request of the district judge shall submit additional lists of names.

§ 2. **Amendment.)** Section 11-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-02. Number and Election of Officers.) Each organized county, unless it has adopted one of the optional forms of county government, provided by the code, shall have the following officers:

1. One county auditor;
2. One register of deeds;
3. One clerk of the district court;

4. One state's attorney;
5. One sheriff;
6. One county judge;
7. One county treasurer;
8. One coroner;
9. One county superintendent of schools;
10. One or more county justices as provided in chapter 27-18;
11. Four constables;
12. One public administrator; and
13. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of more than six thousand and not more than fifteen thousand, the county judge shall be an ex officio clerk of the district court, and in counties having a population of six thousand or less, the register of deeds shall be ex officio clerk of the district court and county judge. The required officers shall be chosen by the qualified electors of the respective counties at the general election in each even numbered year, except the members of the board of county commissioners, who shall be chosen in the manner prescribed in section 11-11-02, the public administrator, who shall be chosen in the manner prescribed in section 11-21-01, the county justice, who shall be chosen in the manner prescribed in section 27-18-01, the county coroner, who shall be chosen in the manner prescribed in section 11-19A-03, and the constables, who shall be appointed by the board of county commissioners.

Approved March 16, 1961.