

DOMESTIC RELATIONS AND PERSONS

CHAPTER 163

HOUSE BILL NO. 1399
(Representatives Black, Martinson)
(Senators Stenehjem, Wenstrom)

STATE POLICY AGAINST DISCRIMINATION

AN ACT to declare a state policy against discrimination on the basis of race, color, religion, national origin, or sex.

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

SECTION 1. STATE POLICY AGAINST DISCRIMINATION. It is the policy of this state to prohibit discrimination on the basis of race, color, religion, national origin, or sex; to prevent and eliminate discrimination in employment relations, public accommodations, housing, state and local government services, and credit transactions; and to deter those who aid, abet, or induce discrimination, or coerce others to discriminate.

Approved March 31, 1981

CHAPTER 164

HOUSE BILL NO. 1554
(Representatives Brokaw, Kuchera, Riehl)
(Senator Lee)

ABORTION CONSENT REQUIREMENTS FOR MINORS

AN ACT to create and enact a new section to chapter 14-02.1 of the North Dakota Century Code to meet the special interest of the state in encouraging unmarried pregnant minors to seek the advice and counsel of their parents when faced with the decision whether or not to bear a child; and to declare an emergency.

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

SECTION 1. A new section to chapter 14-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

PARENTAL CONSENT OR JUDICIAL AUTHORIZATION FOR ABORTION OF UNMARRIED MINOR - STATEMENT OF INTENT. The legislative assembly intends to encourage unmarried pregnant minors to seek the advice and counsel of their parents when faced with the difficult decision of whether or not to bear a child, to foster parental involvement in the making of that decision when parental involvement is in the best interests of the minor and to do so in a manner that does not unduly burden the right to seek an abortion.

1. No person shall knowingly perform an abortion upon a pregnant woman under the age of eighteen years unless:
 - a. The attending physician has secured the written consent of the minor woman and both parents, if living, or the surviving parent if one parent is deceased, or the custodial parent if the parents are separated or divorced, or the legal guardian or guardians if the minor is subject to guardianship;
 - b. The minor woman is married and the attending physician has secured her informed written consent; or
 - c. The abortion has been authorized by the juvenile court in accordance with the provisions of this Act.

2. Any pregnant woman under the age of eighteen or next friend shall be entitled to apply to the juvenile court for authorization to obtain an abortion without parental consent. Proceedings on such application shall be conducted in the juvenile court of the county of the minor's residence before a juvenile judge or referee, if authorized by the juvenile court judge in accordance with the provisions of chapter 27-20, except that the parental notification requirements of chapter 27-20 shall not be applicable to proceedings under this Act. All applications in accordance with this Act shall be heard by a juvenile judge or referee within forty-eight hours, excluding Saturdays and Sundays, of receipt of the application. The purpose of the hearing before the juvenile judge or referee shall be to determine:
 - a. Whether or not the minor is sufficiently mature and well informed with regard to the nature, effects and possible consequences of both having an abortion and bearing her child to be able to choose intelligently among the alternatives.
 - b. If the minor is not sufficiently mature and well informed to choose intelligently among the alternatives without the advice and counsel of her parents or guardian, whether or not it would be in the best interests of the minor to notify her parents or guardian of the proceedings and call in the parents or guardian to advise and counsel the minor and aid the court in making its determination and to assist the minor in making her decision.
 - c. If the minor is not sufficiently mature and well informed to choose intelligently among the alternatives and it is found not to be in the best interests of the minor to notify and call in her parents or guardian for advice and counsel, whether an abortion or some other alternative would be in the best interests of the minor.
3. All proceedings in connection with this Act shall be kept confidential and the identity of the minor shall be protected in accordance with provisions relating to all juvenile court proceedings.
4. The court shall keep a stenographic or mechanically recorded record of the proceedings which shall be maintained on record for forty-eight hours following the proceedings. If no appeal is taken from an order of the court pursuant to the proceedings, the record of the proceedings shall be sealed as soon as practicable following such forty-eight-hour period.

5. Following the hearing and the court's inquiry of the minor, the court shall issue one of the following orders:
 - a. If the minor is sufficiently mature and well informed concerning the alternatives and without the need for further information, advice or counseling, the court shall issue an order authorizing a competent physician to perform the abortion procedure on the minor.
 - b. If the minor is not sufficiently mature and well informed, the court may:
 - (1) Issue an order to provide the minor with any necessary information to assist her in her decision if the minor is mature enough to make the decision but not well informed enough to do so.
 - (2) Issue an order to notify the minor's parents or guardian of the pendency of the proceedings and calling for their attendance at a reconvening of the hearing in order to advise and counsel the minor and assist the court in making its determination if the court finds that to do so would be in the best interests of the minor.
 - (3) Issue an order authorizing an abortion by a competent physician if the court has determined that it would not be in the best interests of the minor to call in her parents or guardian but has found that it would be in the minor's best interests to authorize the abortion.
6. The minor or next friend may appeal the determination of the juvenile court directly to the state supreme court. In the event of such an appeal, any and all orders of the juvenile court shall be automatically stayed pending determination of the issues on appeal. Any appeal taken pursuant to this section by anyone other than the minor or next friend shall be taken within forty-eight hours of the determination of the juvenile court by the filing of written notice with the juvenile court and a written application in the supreme court. Failure to file notice and application within the prescribed time shall result in a forfeiture of the right to appeal and render the juvenile court order or orders effective for all intents and purposes.
7. Upon receipt of written notice of appeal, the juvenile court shall immediately cause to be transmitted to the supreme court the record of proceedings had in the juvenile court.

8. An application for appeal pursuant to this section shall be treated as an expedited appeal by the supreme court and shall be set down for hearing within four days of receipt of the application, excluding Saturdays and Sundays.
9. The hearing, inquiry, and determination of the supreme court shall be limited to a determination of the sufficiency of the inquiry and information considered by the juvenile court and whether or not the order or orders of the juvenile court accord with the information considered with respect to the maturity and information available to the minor and the best interests of the minor as determined by the juvenile court. The determination of the juvenile court shall not be overturned unless found to be clearly erroneous.
10. After hearing the matter the supreme court shall issue its decision within twenty-four hours.
11. Within forty-eight hours of the hearing by the supreme court, the record of the juvenile court shall be returned to the juvenile court and the juvenile court shall seal it at the earliest practicable time.
12. Nothing in this Act shall be construed to prevent the immediate performance of an abortion on an unmarried minor woman in an emergency where such action is necessary to preserve her life and no physician shall be prevented from acting in good faith in such circumstances or made to suffer any sanction thereby other than those applicable in the normal course of events to the general review of emergency and nonemergency medical procedures.
13. Nothing in this Act shall be construed to alter the effects of any other section of this chapter or to expand the rights of any minor to obtain an abortion beyond the limits to such rights recognized under the Constitution of the United States or under other provisions of the North Dakota Century Code.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 31, 1981

CHAPTER 165

HOUSE BILL NO. 1423
(Representatives G. Pomeroy, Heigaard)

DIVORCE AND SEPARATION RESIDENCE REQUIREMENTS

AN ACT to amend and reenact sections 14-05-17 and 14-06-06 of the North Dakota Century Code, relating to residency requirements for divorce and separation.

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

SECTION 1. AMENDMENT. Section 14-05-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-17. RESIDENCE REQUIREMENTS. A divorce must not be granted unless the plaintiff in good faith has been a resident of the state for twelve months next preceding the commencement of the action ~~and is~~

~~1--A-citizen-of-the-United-States,~~

~~2--Has-declared-his-intention-to-become-a-citizen, or~~

~~3--Is--a-citizen-of-the-Philippine-Islands-or-Puerto-Rico-and under-present-law-is-ineligible-to-become-a-citizen-of-the United-States.~~

SECTION 2. AMENDMENT. Section 14-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-06-06. RESIDENCE REQUIREMENTS. No action shall be brought or maintained under the provisions of this chapter unless the plaintiff in good faith has been a resident of this state for twelve months next preceding the commencement of the action ~~and is either a citizen of the United States or has declared his intention to become such.~~

Approved March 2, 1981

CHAPTER 166

HOUSE BILL NO. 1635
(Representatives A. Olson, R. Hausauer, Mushik)
(Senators H. Christensen, Redlin)

DISPLACED HOMEMAKER PROGRAM

AN ACT to provide counseling, guidance, job readiness training, and services for displaced homemakers; and to provide an appropriation.

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

SECTION 1. LEGISLATIVE FINDING AND DECLARATION. The legislative assembly finds that there is an ever-increasing number of persons in this state, who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through separation, divorce, death or disability of spouse, or other loss of support. As a consequence, displaced homemakers are very often without any source of income; they are usually ineligible for categorical welfare assistance; they are subject to one of the highest unemployment rates of any sector of the work force; they often face continuing discrimination in employment because they are older and have no recent paid work experience; they are often ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are often ineligible for social security because they are too young, and many will never qualify for social security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for medical assistance and are generally unacceptable to private health insurance plans because of their age.

It is the intention of the legislative assembly in enacting this chapter to provide the necessary counseling and guidance, job readiness training, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life and to improve the health and welfare of this ever-growing group of citizens.

SECTION 2. DEFINITIONS.

1. "Bureau" means job service North Dakota.
2. "Displaced homemaker" means an individual who:
 - a. Has worked in the home, providing unpaid services for household members.
 - b. Has not been gainfully employed for a minimum of two years or has been underemployed.
 - c. Has had, or would have difficulty finding employment.
 - d. (1) Has depended on the income of another person and has lost that income; or
(2) Has depended on government assistance as the parent of dependent children, but who is not eligible for such assistance or is supported by government assistance which is nearing an end.
3. "Executive director" means the executive director of job service North Dakota.

SECTION 3. GRANTS - DESIGN AND STAFF. The executive director is authorized to enter into contracts with and make grants to nonprofit agencies or organizations to carry out the programs, as enumerated in sections 6, 7, 8, 9, and 10 of this Act. Service centers shall be designed and staffed as follows:

1. The service centers shall provide personal and employment counseling; interpersonal skill building; job readiness, job search, and employability training; information and community referral services; and appropriate public information and community education.
2. Each center shall be organized to include an outreach component capable of delivering the full range of services to groups of displaced homemakers in rural communities.
3. Counseling services shall be delivered via individual, task oriented group, and peer support methods. Counseling and guidance shall be provided by qualified staff.
4. To the greatest extent possible, the staffing of the service centers, including supervisory, technical, and administrative positions, shall be by qualified displaced homemakers and others trained to meet the unique needs of displaced homemakers.

SECTION 4. SOURCES OF FUNDING AND IN-KIND CONTRIBUTIONS. The executive director shall explore all possible sources of funding and in-kind contributions from federal, state, local, and private sources in establishing displaced homemaker services.

SECTION 5. JOB COUNSELING PROGRAM - DESIGN - EMPHASIS. The service centers shall have a job counseling program for displaced homemakers. Job counseling shall be specifically designed for the person reentering the job market after a number of years as a homemaker. The counseling shall take into account and build upon the skills and experiences of a homemaker. Peer counseling and job readiness, as well as skill updating and development, shall be emphasized.

SECTION 6. JOB TRAINING PROGRAM - DEVELOPMENT - STIPEND FOR TRAINEES. The service centers shall have job readiness training programs for displaced homemakers. The service centers may contract or enter into cooperative agreements, or both, with the state board for vocational education, other government agencies, and private employers to develop training programs, or to utilize existing training programs, for available jobs in the public and private sectors for the purpose of promoting self-sufficiency. The job training program may provide a stipend for trainees.

SECTION 7. PROGRAM GOALS. Each of the service centers shall develop a goal to serve a stated number of urban and rural displaced homemakers. In addition, the service centers shall develop plans for including displaced homemakers in existing job training and placement programs offered by job service, colleges, vocational education, or other suitable agencies.

SECTION 8. ASSISTANCE IN FINDING PERMANENT EMPLOYMENT FOR TRAINEE. Service centers shall be responsible for assisting in preparing the trainee for permanent employment. The service centers shall work in cooperation with the executive director, other agencies, or the prime sponsors under the Comprehensive Employment and Training Act of 1973 in the area of the centers to secure employment for displaced homemakers.

SECTION 9. SERVICE PROGRAMS. The service centers shall, in cooperation with other existing service programs, ensure that displaced homemakers receive information and referral services which include:

1. A health counseling and referral clinic based on principles of preventive health care and consumer health education.
2. Money management courses, including information and assistance in dealing with insurance programs (life, health, home, and automobile), taxes, mortgages, loans, and probate problems.
3. Information about other assistance programs, including concrete information and assistance with supplemental security income, social security, veterans administration benefits, welfare, food stamps, housing, unemployment insurance, medical assistance, and educational financial assistance.

4. Educational programs, including courses offered for credit through universities, colleges, or vocational training programs, or leading toward a high school equivalency degree. These courses shall be designed to supplement the usual academic course offerings with classes geared toward older persons to improve their self-image and abilities.

SECTION 10. REGULATIONS - ELIGIBILITY FOR PROGRAMS - LEVEL OF STIPENDS - SLIDING FEE SCALE FOR SERVICE PROGRAMS. The executive director is authorized to adopt rules to implement this Act, to interpret the eligibility of persons for the job readiness training and other programs of the service centers, to establish the level of stipends for the job training programs described in section 6 of this Act, to establish a sliding fee scale for the service programs described in sections 3 and 9 of this Act, and to handle other matters as the executive director deems necessary. Any interpretation of eligibility for services should have as first priority the service of displaced homemakers, as identified in section 2 of this Act.

SECTION 11. DELEGATION OF AUTHORITY. The executive director may delegate any or all of the authority granted by this Act to whatever division within the bureau the director deems appropriate.

SECTION 12. CITIZEN ADVISORY STRUCTURE. The executive director shall establish an advisory body to the department which shall consist of citizen members representing each planning region of the state. Membership may represent displaced homemakers, local service providers, appropriate agencies, employers, educators, and the general public. The advisory body shall provide public information and community education regarding the program and appropriate recommendations to the executive director regarding the planning, operation, and evaluation of the activities mandated by this Act. This body shall annually provide written evaluation of the program to the executive director who will provide this evaluation to the legislative assembly each biennium in addition to the evaluation required in accordance with section 13 of this Act.

SECTION 13. PROGRAM EVALUATION. The executive director, in cooperation with the advisory body, the administrator of each center, and with appropriate heads of nonprofit agencies or organizations carrying out the programs, shall by January 15, 1983, prepare and furnish to the legislative assembly an evaluation report of all activities conducted pursuant to this mandate. Subsequent evaluations shall be provided in like fashion each biennium.

SECTION 14. DISPLACED HOMEMAKER ACCOUNT - CREATION. There is hereby created in the bureau, a displaced homemaker's account. The executive director may apply for and accept any funds, grants, gifts, or services made available for displaced homemakers by any agency or department of the federal government or any private agency or individual. Such funds, grants, gifts, dissolution of marriage-fee assessments, or moneys received from services received pursuant to this section shall be placed in the displaced homemaker

account and may be spent within the limits of legislative appropriations.

SECTION 15. PETITION FOR DISSOLUTION OF MARRIAGE - FEE ASSESSMENT. There should be assessed against the petitioner a fee of twenty dollars upon filing of a petition for dissolution of marriage. All such fees collected shall be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by this Act.

SECTION 16. APPROPRIATION. There is hereby appropriated out of any moneys in the displaced homemaker account in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much thereof as may be necessary, to job service North Dakota for the purpose of providing services for displaced homemakers under this Act for the biennium beginning July 1, 1981, and ending June 30, 1983.

SECTION 17. APPROPRIATION. There is hereby appropriated such additional funds as may become available through grants, gifts, or other sources during the biennium beginning July 1, 1981, and ending June 30, 1983. Such funds may be spent only upon approval of the emergency commission.

Approved March 31, 1981

CHAPTER 167

SENATE BILL NO. 2339
(Senator Stenehjem)
(Representatives Black, Mushik, Swiontek)

ADULT ABUSE PROTECTION ORDERS

AN ACT to amend and reenact sections 14-07.1-02 and 14-07.1-03 of the North Dakota Century Code, relating to protection orders.

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

SECTION 1. AMENDMENT. Section 14-07.1-02 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-07.1-02. ADULT ABUSE - PROTECTION ORDER.

1. An action for a protection order commenced by a verified application alleging the existence of adult abuse may be brought by any spouse or family member or former spouse in the district court, regardless of whether or not a petition for legal separation, annulment, or divorce has been filed.
2. Upon receipt of the application, the court shall order a hearing to be held not later than fourteen days from the date of the hearing order.
3. Service shall be made upon the respondent not less than five days prior to the hearing. If service cannot be made, the court may set a new date.
4. Upon a showing of actual or imminent adult abuse, the court may enter a protection order after due notice and full hearing. The relief provided by the court may include any or all of the following:
 - a. Restraining any party from threatening, molesting, or injuring any other party or minor children of the parties.
 - b. Excluding either party, ~~for a period not to exceed thirty days,~~ from the marital-home dwelling they

share, from the residence of the other, or from an adult abuse care facility, where this exclusion is necessary to the physical or mental well-being of the applicant or others.

- c. Awarding temporary custody or establishing temporary visitation rights with regard to minor children.
 - d. Recommending or requiring that either or both parties undergo counseling with an adult abuse program or other agency which provides professional services which the court deems appropriate. The court may request a report from the designated agency within a time period established by the court. The costs of the court-ordered initial counseling assessment and subsequent reports shall be borne by the parties or, if indigent, by the respondent's county of residence.
 - e. Requiring a party to pay such support as may be necessary for the support of a party and any minor children of the parties and reasonable attorneys fees and costs.
5. The court may amend its order or agreement at any time upon subsequent petition filed by either party.
 6. No order or agreement under this section shall affect title to any real property in any matter.

SECTION 2. AMENDMENT. Section 14-07.1-03 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-07.1-03. TEMPORARY PROTECTION ORDER - COPY TO LAW ENFORCEMENT AGENCY.

1. Where an application under section 14-07.1-02 alleges an immediate and present danger of abuse to the applicant, based upon an allegation of a recent incident of actual abuse or threat of abuse, the court may grant an ex parte temporary protection order, pending a full hearing, granting such relief as the court deems proper.
2. An ex parte temporary protection order may include:
 - a. Restraining any party from committing acts of abuse on the other.
 - b. Excluding any party from the dwelling they share, from the residence of the other, or from an adult abuse shelter care facility.
 - c. Awarding temporary custody or establishing temporary visitation rights with regard to minor children.

3. An ex parte temporary protection order shall remain in effect, in the court's discretion, for not more than thirty days, unless otherwise terminated by the court.
4. A full hearing as provided by section 14-07.1-02 shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be served forthwith with a copy of the ex parte order along with a copy of the application and notice of the date set for the hearing.
5. The clerk of court shall transmit a copy of each temporary protection order, or extension, modification, or termination thereof, by the close of the business day on which the order was granted to the local law enforcement agency with jurisdiction over the residence of the applicant or over the residence at which the actual abuse which is the subject of the temporary protection order has occurred, or is likely to occur, if requested by the applicant and approved by the court. Each appropriate law enforcement agency may make available information as to the existence and current status of any temporary protection order issued pursuant to this section, through an existing verification system, to any law enforcement officer responding to the scene of reported domestic violence.
6. If the filing fee for filing the application has been waived by order of the court, the court may waive the fee for service of process by the sheriff or other appropriate law enforcement agency or may order the respondent to pay these costs.

Approved March 19, 1981

CHAPTER 168

HOUSE BILL NO. 1313
(Representatives Swiontek, Matchie, Unhjem)
(Senator Stenehjem)

DOMESTIC VIOLENCE VICTIM ASSISTANCE

AN ACT authorizing the state department of health to provide financial and other assistance to private nonprofit organizations in developing and maintaining shelters and programs for victims of domestic violence; to amend and reenact sections 14-03-21 and 14-03-22 of the North Dakota Century Code, relating to records of marriage and marriage license fees; and to provide an appropriation.

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

SECTION 1. PURPOSE. The legislative assembly finds that domestic violence is a serious and complex problem which affects families from all social and economic backgrounds. It is the purpose of this Act to provide grants to private nonprofit organizations for spouse abuse programs designed to assist victims of domestic violence and their dependents.

SECTION 2. DEFINITIONS. For the purposes of this Act:

1. "Department" means the state department of health.
2. "Domestic violence" means any act or threatened act which results or threatens to result in bodily injury, and which is committed by a person against another person to whom such person is married or has been married, or with whom such person is residing or has resided lawfully.
3. "Health officer" means the state health officer of the department.
4. "Spouse abuse program" means a program which provides emergency housing for victims of domestic violence and their dependents, plus some or all of the following additional services:
 - a. Counseling.

- b. Advocacy.
- c. Community education on domestic violence.
- d. Support groups.
- e. Twenty-four hour crisis lines.
- f. Referral to other sources for services not provided by the spouse abuse program.

SECTION 3. DOMESTIC VIOLENCE PREVENTION FUND ESTABLISHED.
There is hereby established a special fund in the state treasury, to be known as the domestic violence prevention fund. The moneys accumulated in such fund shall be allocated to the department for distribution as provided by this Act and within the limits of legislative appropriation. The fund shall not be subject to the provisions of section 54-44.1-11 of the North Dakota Century Code.

SECTION 4. GRANTS - ELIGIBILITY - CONDITIONS - LIMITATION.
Moneys in the domestic violence prevention fund shall be administered by the department for grants to private nonprofit organizations which are engaged in providing emergency housing for victims of domestic violence and their dependents. An eligible entity must receive at least twenty-five percent of its funding from one or more local, municipal, or county sources, either in cash or in kind.

Grants shall be renewable within the limits of legislative appropriation, provided the applicant continues to meet the eligibility criteria established by this Act and rules adopted by the department pursuant to this Act and chapter 28-32. Grant application deadlines may be included in any rules adopted pursuant to this section. No initial grant shall exceed the amount of ten thousand dollars per biennium, provided that any appropriated funds remaining unobligated after the first year of the biennium may be disbursed by the department as supplemental grants.

SECTION 5. DUTIES OF HEALTH OFFICER. The health officer shall:

1. Respond to all applicants within sixty days after the deadline for receipt of applications, whether or not the applicant is eligible for funds.
2. Ensure that no more than ten percent of the moneys allocated to the domestic violence prevention fund in any biennium is expended for departmental administration of the grant program.
3. Distribute grants to eligible applicants in accordance with the purposes of this Act.

SECTION 6. AMENDMENT. Section 14-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-21. LICENSE AND CERTIFICATE RETURNED TO COUNTY JUDGE - DUPLICATE DELIVERED TO PERSONS MARRIED - RECORDS KEPT. When a person authorized by law shall solemnize a marriage, he shall fill out and sign the certificate following the license in duplicate, giving his official title, or if a minister of the gospel or priest, the ecclesiastical body with which he is connected. The original copy of the certificate and license shall be returned to the county judge who issued the license within five days after the date of the solemnization of the marriage, and the duplicate copy shall be immediately delivered to the persons married. The judge shall file the original copy in his office and retain it as part of his records. Any person who willfully neglects to make such return within the time required shall be punished as provided in section 14-03-28.

SECTION 7. AMENDMENT. Section 14-03-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-22. RECORDS OF MARRIAGE AND LICENSE FEE - SUPPLEMENTAL FEE - DUTIES OF OFFICERS. ~~When a license is returned to the county judge with the certificate of the person performing the marriage ceremony properly filled out and signed, the judge shall file the license in his office and retain it as part of his records.~~ For the issuance and filing of a marriage license the county judge shall collect the sum of six dollars from the party applying for the license and ~~shall deposit the same monthly with the county treasurer.~~ Beginning with the effective date of this Act, the judge shall also collect from the applicant a supplemental fee of nineteen dollars for aid to victims of domestic violence, pursuant to sections 1 through 5 of this Act. The judge shall deposit the collected sums monthly with the county treasurer. The county treasurer shall forward the amount represented by supplemental fees to the state treasurer by the fifteenth of each month for crediting to the domestic violence prevention fund. The judge shall prepare a copy of the license and certificate and transmit them to the registrar of vital statistics who shall record them in a book of records kept in his office for that purpose. The registrar shall index his records and upon request shall issue certified copies of the recorded license and certificate for a one dollar fee. He shall keep an accurate account of these fees and shall turn them over to the state treasurer by the fifteenth of each month for crediting to the general fund.

SECTION 8. APPROPRIATION. There is hereby appropriated out of any moneys in the domestic violence prevention fund in the state treasury, not otherwise appropriated, the sum of \$228,000, or so much thereof as may be necessary, to the state department of health for the purpose of initiating the grant program as provided by this Act for the biennium beginning July 1, 1981, and ending June 30, 1983.

Approved March 31, 1981

CHAPTER 169

HOUSE BILL NO. 1121
(Unhjem)CHILD SUPPORT OR ALIMONY PAYMENT
FAILURE NOTICE

AN ACT to amend and reenact subsection 1 of section 14-08-07 of the North Dakota Century Code, relating to support payments and procedures upon failure to make payments for child support or alimony combined with child support.

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

SECTION 1. AMENDMENT. Subsection 1 of section 14-08-07 of the 1977 Pocket Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. In any action wherein a court decrees that payments for child support or alimony combined with child support be made, the court shall provide in its decree that such payments be paid to the clerk of court as trustee for remittance to the recipient or person or public agency providing support for such recipient. The clerk of court shall maintain records listing the amount of such the payments, the date when such the payments shall be made, the names and addresses of the parties subject to such the decree, and any other information deemed necessary for the proper administration of such the decree. The parties subject to the decree shall immediately inform the clerk of court of any change of address or change of any other condition which may affect the proper administration of sections 14-08-07 through 14-08-10. Whenever there is failure to make the payments as required, the clerk of court shall send notice of the arrears by ~~registered or certified mail to be delivered only to such person ordered to make the support or alimony payments. Upon proof of receipt of such notice, the clerk of court shall, if payment of the entire arrearage has not been made to the clerk after ten days from the date of proof of such receipt of such notice,~~ first-class mail, with affidavit of service, to the person required to make the payments, or request the a district judge of the judicial district, on a form provided by such the judge, to issue a citation for contempt of court against such the person who has failed to make such the payments and the citation shall be served on such that person as provided by the rules of civil procedure North Dakota Rules of Civil Procedure.

Approved March 11, 1981

CHAPTER 170

HOUSE BILL NO. 1270
(Reiten)

APPOINTMENT OF GUARDIAN TO
REPRESENT CHILD

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to the appointment of a guardian ad litem to represent minor children in court proceedings relating to their custody, support, and visitation.

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

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

APPOINTMENT OF GUARDIAN AD LITEM FOR CHILDREN IN CUSTODY, SUPPORT, AND VISITATION PROCEEDINGS. In any action for an annulment, divorce, legal separation, or other action affecting marriage, where either party has reason for special concern as to the future of the minor children, and in actions affecting the marriage relationship where the custody of such children is contested, either party to the action may petition the court for the appointment of a guardian ad litem to represent the children concerning custody, support, and visitation. The court, in its discretion, may appoint a guardian ad litem on its own motion. If appointed, a guardian ad litem shall serve as an advocate of the children's best interests. The court may direct either or both parties to pay the guardian ad litem fee established by the court. If neither of the parties are able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the county of venue. The court may direct either or both parties to reimburse the county, in whole or in part, for such payment.

Approved March 11, 1981

CHAPTER 171

SENATE BILL NO. 2077
(Legislative Council)
(Interim Judiciary "C" Committee)

WAGE ASSIGNMENT AND EARNINGS WITHHOLDING FOR CHILD SUPPORT

AN ACT to amend and reenact sections 14-09-09.1 and 14-09-09.2 of the North Dakota Century Code, relating to wage assignments and orders to withhold and transmit earnings for child support.

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

SECTION 1. AMENDMENT. Section 14-09-09.1 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-09-09.1. CHILD SUPPORT - WAGE ASSIGNMENT - PROCEDURES.

1. Each judgment containing child support provisions and each order for child support issued by a district court of this state shall include an order directing the obligor to assign such salary currently due or to be due in the future from the obligor's employer or successor employers to the clerk of the court where the judgment is granted or the order issued, in such amount as will be sufficient to meet the child support payments imposed by the court. This wage assignment shall take effect upon application of the person receiving payments or any person or public agency designated to receive such payments, when the requirements of this section have been met. The application shall be a sworn statement which states that the obligor has failed to make a child support payment in full within twenty days of the due date of such payment. This section does not authorize a clerk of court who receives child support payments as trustee under section 14-08-07 to make such application.
2. The clerk of court, upon application of an authorized person or agency, shall send a notice by certified mail to the last known address of any obligor who has failed to make the required child support payment within twenty days of its due date. The notice shall be postmarked no later

than ten days after the date on which the application was filed and shall inform the obligor that the wage assignment shall go into effect ten days after the date on which the notice was sent. The obligor may, within that ten-day period, request a hearing on the issue of whether the wage assignment should take effect, in which case the wage assignment shall be held in abeyance pending the outcome of the hearing. The district court or its referee shall hold a hearing requested under this section within ten working days after the date of the request.

3. If at the hearing the obligor establishes that extraordinary circumstances prevented fulfillment of the child support obligation and that such circumstances are beyond the control of the obligor, the court may direct that the wage assignment be delayed until such time, within twelve months, as another month's payment is missed. If such a delay is granted, the wage assignment shall, upon application, go into effect if, within the following twelve months, the obligor fails to make in full any payment within twenty days of its due date.
4. An assignment made under this section shall be binding upon the employer and successor employers one week after service upon the employer of a true copy of the assignment signed by the obligor-employee and annexed to a copy of the order, by personal service or by registered or certified mail, until further order of the court or as provided in section 14-09-09.4. For purposes of sections 14-09-09.1 through 14-09-09.5, the term employer includes the state and federal governments and the political subdivisions of the state.
5. The employer may not use such assignments as a basis for the discharge of an employee or for any disciplinary action against the employee.
6. The employer must notify the clerk of court entering the wage assignment order, in writing, of the termination of the obligor-employee's employment within thirty days of such termination. Such notice must include the name and address of the obligor-employee's new employer if known.
7. Any wage assignment under this section shall have priority over any attachment, execution, garnishment or wage assignment unless otherwise ordered by the court ~~and shall not be subject to any statutory limitations on such amounts levied against the income of the obligor-employee.~~
8. An employer may deduct one dollar from the obligor-employee's remaining salary for each payment made pursuant to an assignment under this section to cover the employer's expenses involved in such wage assignments.

9. Any wage assignment under this section shall be subject to any statutory limitations on wage assignments provided under federal law.

SECTION 2. AMENDMENT. Section 14-09-09.2 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-09-09.2. CHILD SUPPORT - ALTERNATIVE PROCEDURE TO WITHHOLD AND TRANSMIT EARNINGS.

1. In cases where a wage assignment has not been secured, upon application of the child or of any person having a direct interest in the welfare of the child, the court, pursuant to this section and upon a showing that a child support payment has not been made in full within twenty days of its due date, may order the employer of the obligor-employee:
 - a. To withhold from the obligor-employee's earnings presently due and from future earnings as they become due, such amounts as shall satisfy the obligor-employee's previous arrearage in child support payments, the obligor-employee's obligation to pay child support as it accrues in the future, and any attorney's fees that may be awarded in a proceeding under this section;
 - b. To deduct from the balance of the obligor-employee's salary, a fee of one dollar per month to cover the employer's expenses involved in withholding and transmitting the child support payment for that month;
 - c. To remit at least once each calendar month the amount withheld under subdivision a to the clerk of court entering such order;
 - d. To refrain from dismissing, disciplining, or in any way penalizing the obligor-employee on account of the proceeding to collect child support, on account of any order or orders entered by the court in such proceeding, and on account of employer compliance with such order or orders; and
 - e. To notify in writing the clerk of court entering such order of the termination of such obligor-employee's employment and the name and address if known of the obligor-employee's new employer within thirty days after termination of employment.

Such application may be filed as part of any proceeding brought for failure to make child support payments or may be made independently of any other support enforcement action.

2. Upon the filing of an application to withhold and transmit earnings, the court shall set a time for a hearing. The hearing shall be held within three weeks of the date the application is filed with the court.
3. The applicant shall then cause to be served on the employer a copy of the application, a notice of hearing and interrogatories to be completed and returned by the employer to the court no later than three days prior to the hearing. The interrogatories when completed shall show whether the obligor-employee is an employee of the employer, whether the obligor-employee performs work and provides services or makes sales for the employer in this state, the present length of employment of the obligor-employee with the employer, the present pay period for such obligor-employee, the average earnings of the obligor-employee per pay period, and the name and address of the person, office or division of the employer responsible for the preparation of the obligor-employee's earnings payments.
4. The applicant shall also cause to be served on the obligor-employee a copy of the application and a notice of hearing.
5. Service under this section shall be personally or by mailing by certified mail, the documents required to be served.
6. Any order to withhold and transmit earnings under this section shall have priority over any attachment, execution, garnishment or wage assignment unless otherwise ordered by the court ~~and--shall--not--be--subject--to--any statutory--limitations--on--executions--issued--against--the income--of--the--obligor--employee.~~
7. Any order to withhold and transmit earnings under this section shall be subject to any statutory limitations on executions issued against the income of the obligor-employee which are provided under federal law.

Approved March 9, 1981

CHAPTER 172

SENATE BILL NO. 2369
(Stenehjem)

CHILD SUPPORT PROPERTY LIEN

AN ACT to repeal section 14-09-09.5 of the North Dakota Century Code, relating to payment of child support as a lien upon real property of the obligor.

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

SECTION 1. REPEAL. Section 14-09-09.5 of the 1979 Interim Supplement to the North Dakota Century Code is hereby repealed.

Approved March 18, 1981

CHAPTER 173

SENATE BILL NO. 2132
(Committee on Social Services and Veterans Affairs)
(At the request of the Social Service Board)

ILLEGAL PLACEMENT OF CHILD FOR ADOPTION

AN ACT to amend and reenact sections 14-10-05 and 50-12-17 of the North Dakota Century Code, relating to the penalty imposed for the illegal placement of a child for adoption.

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

SECTION 1. AMENDMENT. Section 14-10-05 of the 1977 Pocket Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-10-05. ASSIGNMENT OF CHILDREN PROHIBITED - PENALTY. No person, other than the parents, may assume the permanent care and custody of a child, unless authorized so to do by an order or decree of a court having jurisdiction, except that a parent, upon giving written notice to the social service board of North Dakota, may place his or her own child in the home of the child's grandparent, uncle, or aunt for adoption or guardianship by the person receiving the child. The child shall be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. No parent shall assign or otherwise transfer his rights or duties with respect to the care and custody of his child. Any such transfer or assignment, written or otherwise, shall be void. This section shall not affect the right of the parent to consent in writing to the legal adoption of his child, but such written consent shall not operate to transfer any right in the child in the absence of a decree by a court having jurisdiction. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT. Section 50-12-17 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-12-17. PENALTY. No person shall place or cause to be placed any child ~~either than his or her own~~ in a family ~~homes~~ home for adoption without a license so to do from the social service board of North Dakota except that a parent, upon giving written notice to the social service board of North Dakota, may place his or her own child in the home of the child's grandparent, uncle, or aunt for adoption by the person receiving the child. The child shall be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. Every person who violates any provision in this chapter is guilty of a class C felony.

Approved April 1, 1981

CHAPTER 174

HOUSE BILL NO. 1065
Legislative Council
(Interim Judiciary "C" Committee)

CONSENT REQUIRED FOR ADOPTION

AN ACT to amend and reenact subsection 1 of section 14-15-05, subsection 1 of section 14-15-06, and subsection 1 of section 14-15-11 of the North Dakota Century Code, relating to consent required for adoption.

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

SECTION 1. AMENDMENT. Subsection 1 of section 14-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Unless consent is not required under section 14-15-06, a petition to adopt a minor may be granted only if written consent to a particular adoption has been executed by:
 - a. The mother of the minor whether by birth or adoption;
 - b. The father of the minor, if ~~the father was married to the mother at the time the minor was conceived or at any time thereafter,~~ the:
 - (1) The minor is his child by adoption, or he has otherwise legitimated the minor according to the laws of the place in which the adoption proceeding is brought; or
 - (2) He is presumed to be the natural father of the minor under subsection 1 of section 14-17-04, provided the nonexistence of the father and child relationship between them has not been judicially determined;
 - c. Any person lawfully entitled to custody of the minor or empowered to consent;
 - d. The court having jurisdiction to determine custody of the minor, if the legal guardian or custodian of the

person of the minor is not empowered to consent to the adoption;

- e. The minor, if more than ten years of age, unless the court in the best interest of the minor dispenses with the minor's consent; and
- f. The spouse of the minor to be adopted.

SECTION 2. AMENDMENT. Subsection 1 of section 14-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 1. Consent to adoption is not required of:
 - a. A parent who has deserted a child without affording means of identification, or who has abandoned a child;
 - b. A parent of a child in the custody of another, if the parent for a period of at least one year has failed significantly without justifiable cause (i) to communicate with the child or (ii) to provide for the care and support of the child as required by law or judicial decree;
 - c. The father of a minor if the father's consent is not required by section 14-15-05(1) (b);
 - d. A parent who has relinquished his right to consent under section 14-15-19;
 - e. A parent whose parental rights have been terminated by order of court under section 14-15-19;
 - f. A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent;
 - g. Any parent of the individual to be adopted, if the individual is an adult;
 - h. Any legal guardian or lawful custodian of the individual to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably; ~~ex~~
 - i. The spouse of the individual to be adopted, if the failure of the spouse to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or

circumstances constituting an unreasonable withholding of consent; or

- j. A parent of the minor, if the failure of the parent to consent is excused by the court in the best interest of the child by reason of the parent's prolonged unexplained absence, unavailability, incapacity, or significant failure, without justifiable cause, to establish a substantial relationship with the minor or to manifest a significant parental interest in the minor, or by reason of inability of the court to identify the parent.

SECTION 3. AMENDMENT. Subsection 1 of section 14-15-11 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing shall be given by the petitioner to (a) the social service board; (b) any agency or person whose consent to the adoption is required by this Act chapter but who has not consented; (c) a person whose consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, and i, and j of subsection 1 of section 14-15-06 but who has not consented; and (d) any person identified by the court as a natural parent or a possible natural parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 27-20-45 and section 14-17-24, unless the person has relinquished parental rights or his parental rights have been previously terminated by a court. The notice to the social service board shall be accompanied by a copy of the petition.

Approved March 5, 1981